

03 18

BOX:

327

FOLDER:

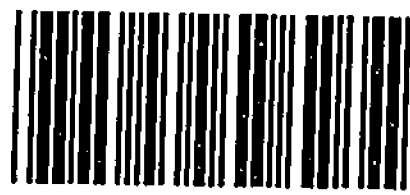
3100

DESCRIPTION:

Yauch, Gustavus

DATE:

10/18/88



3100

03 19

BOX:

327

FOLDER:

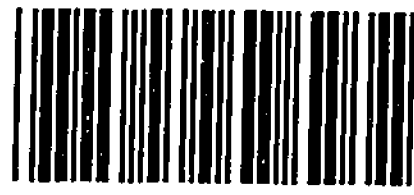
3100

DESCRIPTION:

Jaffrey, Rollard C.

DATE:

10/18/88



3100

0320

BOX:

327

FOLDER:

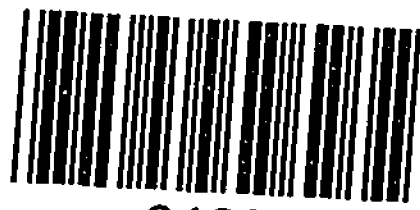
3100

DESCRIPTION:

Lasher, Luther

DATE:

10/18/88



3100

Bail fixed at \$1000

Witnesses:

Arthur Constock

As to debt taken
respectfully acknowledged
that of the following
be accepted.

Part 2 May 21/90
- July 21/90

Ch. 1.

Spied & long disappear
for 5 days

Part 2 May 21/90
- July 21/90

Bail reduced to
\$500

RBC

Counsel,

Filed

Pleas,

THE PEOPLE

William Yards

Roland C. Jaffrey

Arthur Jaffrey

JOHN R. FELLOWS

McL. F. returned

A TRUSTEE

McL. F. returned

McL. F. returned

McL. F. returned

McL. F. returned

89

188

Section 488, 506, 522, 530, 535

JOHN R. FELLOWS

McL. F. returned

A TRUSTEE

McL. F. returned

McL. F. returned

McL. F. returned

McL. F. returned

Paul fixed at 1000
R.M.

Witnesses:
Arthur Constock
to & depts. Lashley

respectfully recommended
that on floor of fresh breeches
be accepted.

But 2 May 2/1900 W.D. Lawrence
- Feb 2/1900 W.D. Lawrence

Chas. L.

Spice & Lashley
for 1/2 year 2/1900
for 3/4 year 2/1900
for 1/2 year 2/1900
for 3/4 year 2/1900

Paul received a 6
R.M.

Paul received a 6
R.M.

Paul received a 6
R.M.

Counsel,
Filed day of Oct 1889

Pleads, Chas. L.

THE PEOPLE
3/11/1900

William's yards
Rolland C. Lashley
Arthur Lashley
committed to jail 2/1900

John R. Fellows
McDonald McDonald
McDonald McDonald

Paul received a 6
R.M.

Paul received a 6
R.M.

[Section 488, 506, 528, 530 - 5352]

County Court

Paul received a 6
R.M.

Paul received a 6
R.M.

Paul received a 6
R.M.

Genl Tenn Vol 1891

Present Hon. Joseph D. Bailey, C. J. &
Hon. Henry Bradloff, Jr., J.

The People of the State of
New York

Richard Barker Principal +
John A. Lammie Secretary

Motion by the District, that the order
heretofore granted remitting the forfeiture of a
recogn & vacating the judgment thereon
be vacated and a rule that the motion
be denied such forfeiture to vacate same judge
be returned.

Blow. Redundancy in word Post Office,
for the notes

Ambrose W. Fairley Esq
Opposed

Recurian. An application to the Genl Term of the Ct. was made in Nov 1890. on behalf of John A. Barrie to remit his forfeiture of a recognizance entered into by him for the appearance of Luther Barker for trial in the Ct of Genl Sess. upon an indictment then pending agst him, & to vacate the Judgt entered upon such forfeiture.

The appli was not opposed by the ^{then} Dist
Atty upon his consent & certificate that the
people had lost no rights in the matter,
& proof that all expenses incurred in the
recapture or apprehension of the principal
& the costs & expenses of the proceedings to
enforce the forfeiture had been paid
an order was duly entered on the 3rd
day of Feby 1891, granting the relief
sought. Subsequently the present
Dist Atty moved to have the same order
revoked & recalled set aside and the
forfeiture & judgment entered thereon reinstated
assigning as grounds therefor that prior
to the application to this Court appli for
the same relief ~~was~~ had been made
to Hon Randolph B. Marline one of the
judges of the Ct of Genl Sessions & by
him denied upon the merits, which facts
were not disclosed to this Court upon
the motion which resulted in the order
sought to be recalled set aside.

This Court had held in a similar
case (People v Street, 14 N.Y. Supplement p 778)
that it will not entertain an appli-
cation to remit a forfeited recognizance
when it appears that a former app-
lication for the same relief has been
made to another judge or court of com-

current jurisdiction & been thus disposed of on the merits adversely to the applicants, and, as upon the hearing of this motion the facts respecting the former application & its denial by Judge Mathie upon the merits & the non-disclosure thereof to this Court on the motion resulting in the order of Feb'y 3rd AD 1891. are conceded, it follows that order should be vacated & set aside & that the forfeited recognizance & the judgment therein referred to be annulled & that the motion to annul the forfeiture & vacate the judgment entered thereon should be denied.

Motion to vacate & set aside order entered Feb'y 3rd 1891 & to annul the forfeited recognizance & judgment therein referred to, granted, & motion to annul the forfeiture & vacate the judgment entered thereon is denied.

Order to show cause
dated Oct 9-1891

Upon affdts of Colus Edmundo verified
Oct 9-1891 for all papers & pro-
ceedings herein & set forth under order
or their assigns P & Mc e show cause
before J. C. on first Monday Nov. 9/
at 11 o'clock why the order made
herein on 6th day of July 1891 was
this or number of order made herein on
the 10 day of April 1891 as returned
the debt from the said P & Mc e must be
paid or any other of their agents or agents from
demand or receiving or in any manner
with the money now in the possession
in this matter & make the Comptroller of the
Treasury & also the Comptroller of the
not be vacated & set aside & why or
because should not be heard upon the
merits of the order to show cause granted
by Mr Justice Pease on the 10 day of
April 1891 & the lien of the judgment
ed. ~~affdts~~ on filing the order of forfeiture
in the office of the Co Clerk of the Co.
should not be vacated & be in full
force & effect & why the people & for
such other & further orders

It is ordered that
J. C.

W. W. Co. Plm.

Jan 1891

Dr. J. J. J. J.
Principal

John A. J. J.
J. J. J.

John A. J. J.
J. J. J.

John A. J. J.
J. J. J.

John A. J. J.
J. J. J.

John A. J. J.
J. J. J.

John A. J. J.
J. J. J.

John A. J. J.
J. J. J.

John A. J. J.
J. J. J.

Filed March 7/89

8. J. J.

At a General Term of the Court of
Common Pleas for the City and County
of New York, held at the County Court
House in the City and County of New
York, on the seventh day of March 1892.

PRESENT:

Hon. Joseph F. Daly, C.J.

Hon. Henry Bischoff, Jr. J.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

The People of the State of New York

Against

Luther Lasher, Principal,

and John A. Carnie, Surety.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

On reading and filing the affidavit of David Welch,
Deputy Assistant District Attorney, verified April 10th
1891, and the Order to show cause granted thereon on the
same day, directing Luther Lasher and John A. Carnie or
their attorneys to show cause before the General Term
of this Court to be held on the first Monday of May, 1891,
why the order made herein bearing date the 3rd day of
February 1891, directing the City Chamberlain or other
officer in charge of the finances of the City of New
York to ~~pay~~ repay to the said John A. Carnie, the amount
of the judgment heretofore entered against him in be-
half of the People of the State of New York, docketed in
the office of the Clerk of the City and County of New
York on the 16th day of March 1889, upon a forfeited
recognizance, and further directing said clerk to vacate
and discharge said judgment of record, should not be
vacated and set aside, and why the lien thereof should

(2)

not be restored and reinstated, and restraining the defendants and their attorneys from receiving or demanding from the Chamberlain or Comptroller the money heretofore paid to them on such judgment;

And after reading the order heretofore filed herein dated the 6th day of July 1891, vacating so much of the above mentioned order to show cause herein bearing date April 10th 1891, as restrained the said Luther Lasher, John A. Carnie and their attorneys from demanding or receiving from the Chamberlain or Comptroller the amount of said judgment.

And after reading and filing the affidavit of Charles E. Simms Jr. Deputy Assistant District Attorney, verified October 9th 1891, and the order to show cause granted thereon by Mr. Justice Allen, bearing date the 9th day of October 1891, directing the said defendants or their attorneys to show cause at a General Term of this Court on the first Monday of November 1891, why the order herein bearing date July 6th 1891, vacating so much of the said order to show cause dated April 10th 1890, as restrained the defendants or their attorneys from demanding or receiving from the Chamberlain or Comptroller the amount of said judgment; should not be vacated and set aside, and why a hearing should not be had upon the merits on the order to show cause granted herein on April 10th 1891, by Mr. Justice Bischoff and why the lien of the judgment docketed herein upon the forfeited recognizance on the 16th day of March 1889, should not be

(3)

restored and reinstated and why the People should not have such other and further order or relief as may be just in the premises.

And upon reading the affidavit of Ambrose H. Purdy, Esq. one of the attorneys for said Lasher and Carnie, and the order to show cause granted thereon directing the Hon. DeLancey Nicoll, District Attorney, to show cause before Mr. Justice Bookstaver or one of the Justices of this Court, at Chambers thereof, on the 4th day of October 1891, why the order to show cause made herein on the 9th day of October 1891, should not be vacated and set aside.

And it appearing that, on the hearing of said last mentioned order to show cause Mr. Justice Bookstaver directed that it be heard at General Term;

And the motion on the order to show cause herein, dated October 9th 1891, returnable on the first Monday of November 1891, at General Term, and the motion on the order to show cause granted upon the affidavit of Ambrose H. Purdy Esq. one of the attorneys for said Lasher and Carnie, and dated October 13th 1891, coming on to be heard at the same time;

And after hearing Charles E. Simms Jr. Deputy Assistant District Attorney for the People of the State of New York, and Ambrose H. Purdy, Esq. attorney for Luther Lasher, Principal, and John A. Carnie, Surety, it is

ORDERED, that ~~xxx~~ motion of said Luther Lasher and John A. Carnie to vacate and set aside the order to show cause herein dated the 9th day of October 1891,

be and the same hereby is in all respects denied.

AND IT IS FURTHER ORDERED, that the Order of this Court heretofore entered herein, bearing date the 3rd day of February 1891, directing the Chamberlain or other officer in charge of the finances of the City of New York, to repay to the said John A. Carnie the amount of the judgment docketed in the office of the Clerk of the City and County of New York, by the People of the State of New York, against said John A. Carnie and Luther Lasher on the 16th day of March, 1889, upon a forfeited recognizance and directing the said Clerk to vacate and discharge said judgment of record, be and the said order hereby is in all respects vacated and set aside.

AND IT IS FURTHER ORDERED, that the forfeited recognizance and the judgment filed and docketed thereon in the office of the Clerk of the City and County on the 16th day of March, 1889, by the People of the State of New York against Luther Lasher, Principal, and John A. Carnie, Surety, be and the same hereby are reinstated and restored and the Clerk of the City and County of New York is hereby ordered, and directed to reinstate and restore the lien of said judgment by noting the same on the dockets in his office.

(L.S.)

A Copy.

S. Jones,

Clerk.

POOR QUALITY
ORIGINAL

0332

No. 49
Court of Common Pleas

THE PEOPLE OF THE STATE OF
NEW YORK

against

Luther Lasher
Principal

and
John A. Larnier
Surety

Copy

Order of Notice of entry
thereof

DE LANCEY NICOLL,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,

NEW YORK CITY.

Due and timely service of a copy
of the within order and notice
of entry thereof is hereby adver-
tised this 21st day of March 1892.

R. F. W. C.

Per [Signature]

You will please take
notice that the within is
a copy of an order made
& entered herein, and filed
in the office of the Clerk
of the Court of Common
Pleas in and for the City
and County of New York
on the 15th day of March

1892.

Dated March 19/1892

Yours &c

De Lancey Nicoll

District Atty.

32 Chambers St

N.Y. City

F. J.

At a Special Term of the Court of
Common Pleas for the City and
County of New York, held at the
County Court House in the City
and County of New York, on the
Seventh day of *March* 1891.

Present:

HON. JAMES M. WELCH, J. C.

HON. JAMES M. WELCH, J. C.

THE PEOPLE OF THE CITY AND COUNTY OF NEW YORK

vs.

John A. Garnie

Defendant.

John A. Garnie, Plaintiff.

On reading and filing the writ of Habeas Corpus,
Return Assistant District Attorney, dated April 18th,
1891, and the order of the Court dated April 18th,
1891, directing John A. Garnie and John A. Garnie to
their attorneys to show cause before the Court of
this Court to be held on the first Monday of May, 1891, why
the writ should not be granted as to the body of February,
1891, directing the City Chamberlain or other officer in
charge of the finances of the City of New York to pay to
the said John A. Garnie, the amount of the judgments in the
said actions against him in behalf of the People of the
State of New York, docketed in the Office of the Clerk of
the City and County of New York on the 18th day of March,
1889, upon a forfeited recognizance, and further directing

and should be reversed and likewise said judgment of record, should not be created and set aside, and why a hearing of should not be had upon the writs on the order to show cause the defendants and their attorneys from receiving or demanding from the Chamberlain or Comptroller the money heretofore paid to them on such judgment;

And after reading the order heretofore filed herein dated the 4th day of July, 1891, directing so much of the above-mentioned order to show cause herein bearing date April 10, 1891, as restrained the said Chamberlain, John A. Simms and their attorneys from demanding or receiving from the Chamberlain or Comptroller the amount of said judgment;

And after reading and filing the affidavit of Charles E. Sims, Jr., Deputy Attorney General, verified October 21, 1891, and an order to show cause created thereon by Mr. Justice A. Lee, bearing date the 23d day of October, 1891, directing the said defendants or their attorneys to show cause at a General Term of this Court on the first Monday of November, 1891, why the same herein bearing date July 6, 1891, directing so much of said order to show cause dated April 10th, 1890, as restrained the defendants or their attorneys from demanding or receiving from the Chamberlain or Comptroller the amount of said judgment; should not be created and set aside, and why a hearing should not be had upon the writs on the order to show cause granted herein on April 10th, 1891, by Mr. Justice Bischoff,

and why the writ of the judgment decreed herein upon the forfeited recognizance on the 18th day of March, 1899, should not be restored and reinstated and why the People should not have such other and further order or relief as may be just in the premises,

And upon reading the affidavit of Ambrose H. Purdy, Esq., one of the attorneys for said Lasher and Carnie, and the order to show cause granted thereon directing the Hon. Delancey Nicoll, District Attorney, to show cause before Mr. Justice Hookstover or one of the Justices of this Court at Chambers thereof, on the 18th day of October, 1891, why the order to show cause made herein on the 9th day of October, 1891, should not be vacated and set aside,

And it appearing that, on the having of said last mentioned order to show cause Mr. Justice Hookstover directed that it be heard at General Term;

And the motion on the order to show cause herein dated October 9th, 1891, returnable on the first Monday of November, 1891, at General Term, and the motion on the order to show cause granted upon the affidavit of Ambrose H. Purdy Esq., one of the attorneys for said Lasher and Carnie, and dated October 18th, 1891, coming on to be heard at the same time;

And after hearing Charles E. Simms, Jr., Deputy Assistant District Attorney for the People of the State of New York, and Ambrose H. Purdy, Esq., attorney for Luther Lasher principal, and John A. Carnie, surety, it is

O R D E R E D, that motion of said Luther Lasher

and John A. Cornie to vacate and set aside the order to show cause herein dated the 9th day of October, 1891, be and the same hereby is in all respects denied.

AND IT IS FURTHER ORDERED, that the order of this Court heretofore entered herein, bearing date the 3rd day of February, 1891, directing the Clerk of the City and County of New York to pay to the said John A. Cornie the amount of the judgment docketed in the office of the Clerk of the City and County of New York, by the People of the State of New York against said John A. Cornie and Luther Lashow on the 15th day of March, 1889, upon a forfeited recognizance and directing the said Clerk to vacate and set aside said judgment of record, be and the said order hereby is in all respects vacated and set aside.

AND IT IS FURTHER ORDERED that the forfeited recognizance and the judgment filed and docketed therein in the office of the Clerk of the City and County on the 15th day of March, 1889, by the People of the State of New York against Luther Lashow, principal, and John A. Cornie, surety, be and the same hereby are reinstated and restored and the Clerk of the City and County of New York is hereby ordered and directed to reinstate and restore the lien of said judgment by noting the same on the docket in his office.

Albion Jones
Clark

POOR QUALITY
ORIGINAL

0337

4

Please take notice that an order of which
the foregoing is a copy will be presented for
settlement at a General Term of the Court of
Common Pleas on the 15 day of March 1892 @ 1 P^m

Yours &c

De Lancey Nicoll,

District Attorney

To

Purdy & McLaughlin Esq
280 Broadway
N.Y. City

POOR QUALITY
ORIGINAL

0338

40
Court of Common Pleas

THE PEOPLE OF THE STATE OF
NEW YORK

You please take
notice that the within is
a Certified Copy of an order
made and entered herein and
filed in the office of the
Clerk of the Court of Common
Pleas in and for the City &
County of New York on
the 15th day of March 1892.
Dated March 19-1892
Yours &c

against

Luther Lasker
and
John A. Larrie
Surety

Certified Copy
Order and Notice of
Exhibition, Entry thereof

DE LANCEY NICOLL,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,

NEW YORK CITY.

De Lancey Nicoll

Dist Atty

32 Chambers St

N.Y. City

To

Purdy & Mc Manus Esq.

250 B roadway

N.Y. City

The Chamberlain refused to
receive the within as a copy
had been served on the Deputy
Comptroller
March 21/92 C.E.D.

To Thos C. T. Crain Esq

Chamberlain &c

At a Special Term of the Court of
Common Pleas for the City and County
of New York, held at the Chambers
thereof in the County Court House, in
the City of New York, on the 22nd
day of October, 1891,

PRESENT:

Hon. Henry W. Rockstaver,
Judge.

-----X
The People of the State of New York

Against

Luther Lasher, Principal, and

John A. Carnie, Surety.
-----X

On reading and filing the affidavit of Ambrose H.
Purdy, Esq. attorney for the above-named Luther Lasher
and John A. Carnie, and the order granted thereon,
directing the People to show cause why the order made
herein on the 9th day of October 1891, should not be
vacated and set aside, and after hearing Ambrose H.
Purdy Esq. in support of the motion, and Charles E.
Simms Jr. Deputy Assistant District Attorney in op-
position thereto, it is

O R D E R E D that the motion to vacate the order
to show cause herein, granted on the 9th day of October
1891, be and the same hereby is in all respects denied.

{ seal }

A. copy.

S. Jones, Clerk

cwc

POOR QUALITY
ORIGINAL

0340

Court of Common Pleas

THE PEOPLE OF THE STATE OF
NEW YORK

against

*To Luther Lasher
and Principal*

*John A. Carnie
Succesor*

*Copy of Certified Copy
Order denying
Motion.*

DE LANCEY NICOLL,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET.

NEW YORK CITY.

Due service of a certified
copy of the within order
is hereby admitted this
day of Oct. 1891.

*Forby & M. M. M. M.
Attorneys General*

POOR QUALITY
ORIGINAL

0341

COURT OF COMMON PLEAS

CITY AND COUNTY OF NEW YORK.

=====

The People of the State of New York

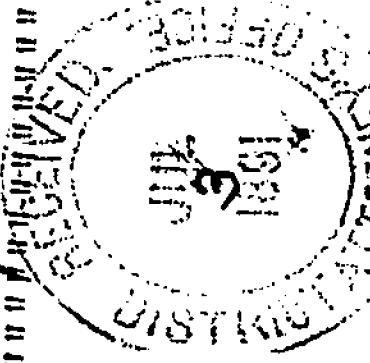
--agst--

Luther Lasher, Principal, and
John A. Carnie, Surety.

=====

ORDER: *

note of settlement



Purdy & McManus, Defts. Att'ys.,

No. 280 Broadway,

New York City.

Ed McManus New York City
Wren Alley

POOR QUALITY
ORIGINAL

0342

THE PEOPLE OF THE STATE OF
NEW YORK

against

Luther Lasher, Principal,

and

John A. Carnie, Surety.

ORDER TO SHOW CAUSE,

(Granted April 10/91)

AFFIDAVITS, OPINION, etc.,

DE LANCEY NICOLL,

DISTRICT ATTORNEY.

No. 32 CHURCH STREET

*copy attached
Inducted 10/10/91
Custodian of the
April 13, 1891*

Copy of record by

John H. Donahue & Co

10/10/91

David Miller

John H. Donahue & Co

David Miller

10/10/91

As a General Term of the Court of
Sessions for the City and County
of New York, held at the County Court
House in the City and County of New
York, on the seventh day of March 1901.

PRESENT:

Judge Joseph M. Wells, C.J.

Judge Henry Bischoff, Jr., J.

The People of the County of New York

Against

Lawyer Luther, Plaintiff.

vs. John A. Carmie, Defendant.

On reading and filing the Affidavit of David Welch,
Deputy A. District Attorney, sworn to April 10th
1901, and the order to show cause, made and entered on the
same day, directing Luther and John A. Carmie or
their attorneys to show cause before the General Term
of this Court to be held on the first Monday of May, 1901,
why the order made herein bearing date the 3rd day of
February 1901, directing the City Chamberlain or other
officer in charge of the Records of the City of New
York to pay money to the said John A. Carmie, the amount
of the judgment heretofore entered against him in be-
half of the People of the State of New York, docketed in
the office of the Clerk of the City and County of New
York on the 10th day of March 1900, upon a forfeited
recognizance, and further directing said clerk to vacate
and discharge said judgment of record, should not be
vacated and set aside, and why the lien thereof should

(2)

not be restored and reinstated, and restraining the defendants and their attorneys from receiving or demanding from the Chamberlain or Comptroller the money heretofore paid to them on such judgment;

And after reading the order heretofore filed herein dated the 28th day of July 1891, vacating so much of the above mentioned order to show cause herein bearing date April 10th 1891, as restrained the said Arthur Barker, John A. Carole and their attorneys from receiving or receiving from the Chamberlain or Comptroller the amount of said judgment.

And after reading and filing the affidavit of Charles E. Weiss Jr. Deputy Assistant District Attorney, verified October 9th 1891, and the order to show cause granted thereon by Mr. Justice Allen, bearing date the 9th day of October 1891, directing the said defendants or their attorneys to show cause at a General Term of this Court on the first Monday of November 1891, why the order herein bearing date July 28th 1891, vacating so much of the said order to show cause dated April 10th 1891, as restrained the defendants or their attorneys from demanding or receiving from the Chamberlain or Comptroller the amount of said judgment; should not be vacated and set aside, and why a hearing should not be had upon the merits on the order to show cause granted herein on April 10th 1891, by Mr. Justice Bischoff and why the lien of the judgment docketed herein upon the forfeited recognizance on the 26th day of March 1889, should not be

protected and reinforced and the the People should not have such other not knowing what or where as they do just in the moment.

And it is further stated, on the hearing of said last motion and order to show cause, that the defendant or respondent has failed to show cause as required; that is to say, he has failed to show;

And after hearing Charles H. Miller Jr. Deputy Assistant District Attorney for the People of the State of New York, and Ambrose P. Hardy, Esq. attorney for Luther Lester, Principal, and John A. Camilo, Surety, it is

ORDERED, that ~~xxxx~~ motion of said Luther Basher
and John A. Carnie to vacate and set aside the order
to show cause herein dated the 9th day of October 1891,

[illegible]

(I. S.)

A copy.

100-100000

11-17-72

POOR QUALITY
ORIGINAL

0347

48
Court of Common Pleas

THE PEOPLE OF THE STATE OF
NEW YORK

against

Luther Lasher

Principal
and

John A. Carmel
Surety

Copy

Order and Notice of
entry thereof.

DE LANCEY NICOLL,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET.

NEW YORK CITY.

You will please
Take notice that the
within is a copy of an
order made and entered
herein and filed in the
office of the Clerk of the
Court of Common Pleas in
and for the City and County
of New York on the 15th day

day of March 1892

Dated March 19-1892

Yours &c

De Lancey Nicoll

Dist Atty

32 Chambers St.

N.Y. City

Due Service of a copy of the within
order and notice of entry thereof
is hereby admitted this 21st day
of March 1892.

N. Y. C O M M O N P L E A S.

- - - - - x
:
The People of the State of
:
New York
:
against
:
Luther Lasher
Principal :
and
John A. Carnie,
Surety.
:
- - - - - x

O R D E R
to show cause.

On the foregoing affidavits of Ambrose H. Purdy
verified October 13th 1891, and on the affidavit of Charles
Simms of October 9th 1891, and on the order made herein at
Chambers of this Court by Mr. Justice Bookstaver, dated on
or about July 6th 1891, and on proof of service thereof on
Delancy Nicoll, Esq., the District Attorney of New York Coun-
ty, and on the Comptroller, Chamberlain and Corporation Coun-
sel, let the Hon. Delancy Nicoll show cause before me or one
of the justices of this court at Chambers thereof, at the
Court House in the City of New York, on the 14th day of
October 1891, at 10 A. M., *and a half* why the order made and dated here-
in on October 9th 1891, should not be vacated and set aside,
and why the defendants herein should not have such other and
further order and relief in the premises as to the Court may
seem just and proper.

And satisfactory reasons appearing to me to exist,
therefor,

O R D E R E D that service of this order on the
District Attorney on *October 13th* ~~or before October~~ 1891, should be
deemed sufficient service. *Cover*

POOR QUALITY
ORIGINAL

0349

RECEIVED SULLYSTON DELATES

Dated *Nov 13th 1841*

ROGER A. PRYOR
J. C. C. P.

THE STATE OF NEW YORK
IN SENATE
JANUARY 13th 1842
REPORT
OF THE
COMMISSIONERS OF THE LAND OFFICE
IN ANSWER TO A RESOLUTION
PASSED BY THE SENATE
MAY 18th 1841
ALBANY: PUBLISHED BY
J. C. C. P.
1842

ALBANY: PUBLISHED BY
J. C. C. P.
1842

Holmes

N. Y. COMMON PLEAS

+
----- x

The People of the State of

New York

against

AFFIDAVIT.

Luther Lasher

Principal :

and

John A. Carnie

Surety.

----- x

City and County of New York, ss:-

2
+
A M E R O S E H. P U R D Y being duly sworn,
deposes and says, that he is one of the attorneys for the
respondent herein, Luther Lasher and John A. Carnie.

That on or about the 3rd day of February 1891, on due and
proper notice to the District Attorney, an order was made by
the General Term of this Court directing the Chamberlain of
the City and County of New York, to repay to John A. Carnie
the amount of the judgment herein.

That a certified copy of this order was duly served on
the Chamberlain and Comptroller and on the District Attorney,
shortly after said order was made; that neither of them com-
plied with said order.

3
+
That on or about the 15th day of April 1891, the said
District Attorney, ex parte and without notice to respondents
or their attorneys, got from this Court an order cause re-
straining the respondents from enforcing their rights under
the order of the General Term of February 1891, as hereinafter
set forth; which order was returnable at May General Term,
1891.

That at May General Term 1891, plaintiffs ^{appear to} did not enforce their said order to show cause or call it up; whereby as matter of law, the same was abandoned and became a nullity.

4
But inasmuch as said order to show cause contained an injunction restraining the defendants from proceeding under the order of February 3rd 1891, of the General Term, the deponent as matter of prudence as attorney for the defendants, on or about the 29th day of June 1891, caused to be served on the District Attorney, a notice of motion returnable June 29th 1891, before Mr. Justice Bookstaver, to vacate said order of Judge Bischoff of April 13th 1891. Said motion was granted. The District Attorney admitted service upon him of said order ~~to show cause.~~ *notice of motion.*

On July 3rd 1891, a copy of the proposed order granting said motion and the notice of settlement thereof was duly served on the District Attorney, who admitted service thereof.

6
That the day fixed for settlement thereof was July 6th 1891, at 10.30. That on July 6th 1891, the said order was duly made and settled by Judge Bookstaver and certified copies thereof duly served on the Comptroller, District Attorney and Corporation Counsel on or about July 7th 1891, and demand was duly made that the Comptroller comply with all the said orders.

Deponent was put off from time to time, until on the 4th day of October 1891, an ex parte order was obtained from the Hon. H. Wilder Allen, one of the justices of this Court, requiring the said respondents, Carnie and Lasher, to show cause at the General Term of this Court, why the aforesaid order made at Special Term under date of on or about July 6th 1891,, should not be vacated and set aside.

That more than three months have elapsed since the making
and service upon the District Attorney of the Special Term
under which he now seeks to have vacated at November General
Term. of 1891

That deponent asks for an order to show cause, returnable
in less than four days, to vacate said order to show cause of
October 9th 1891, for the reason that he expects to be busy
in several important cases this week and next week.

That no appeal to the General Term of this Court has been
taken by the ~~defendant~~ ^{District Attorney} or the Comptroller or the Mayor from
said order of July 6th 1891 although certified copies thereof
and of notice of entry thereof were duly served on the Dis-
trict Attorney, the Corporation Counsel and the Comptroller.
on 7th July 1891

That deponent says that his aforesaid statements are
corroborated on pages 3 and 4 of the moving affidavit herein.
made by the Assistant District Attorney
Charles C. Figgins on Oct 9 1891

Deponent further says that no
previous application has been
made to this Court or to any
judge thereof for this or a
similar order in this proceed-
ing.

Sworn to before me }
13th Oct 1891 }
Wm. C. Clifford
Notary Public
N.Y.C.

S. H. Purdy

POOR QUALITY
ORIGINAL

0353

N. Y. COMMON PLEAS.

The People of the State etc

against

Luther Lasher and John A.

Carnie.

Copied
AFFIDAVIT and

Order to show cause

(without stay)

Purdy & McManus,

Attys. for defendants
280 Broadway, N. Y.

Due and timely service of
a copy of within admitted.
October 1891.

By Hon. Clarence K. Cole
Entered atty
Recd Oct 13/91

NEW YORK COURT OF GENERAL SESSIONS.

.....X
THE PEOPLE, &c.,

against

LUTHER DASHER.
.....X

Hon. John R. Fellows,

Sir:-

Please take notice that on the complaint and indictment in the above case, we will move the Court at Part 2, on Jan. 14th., 1888, at eleven o'clock A.M. or as soon as Counsel can be heard to fix bail for the Defendant.

Respectfully,

Purdy & McLaughlin,

Attorneys for Defendant.

0355

THE PEOPLE, &c.,

against

LUTHER T. ASHER

-0-0-0-0-0-0-0-0-0-0-0-0-0

NOTICE.

0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0-0

Purdy & McLaughlin,

Attorneys for Defendant:

280 Broadway,

New York City,

POOR QUALITY
ORIGINAL

0356

122 ps.
TO THE CHIEF CLERK.

Please send me the Papers in the Case of

PEOPLE

vs.

Luther Lashier & Co
a laarnie

Judgt entered Mch 16/89

District Attorney.

The People of the State of New York

VS.

and John A. Carnie
Surety.

Take notice that upon the annexed petition and upon all the proceedings heretofore had herein the undersigned thereof will move this Court at a General Term, to be held at the Court House in the City of New York on the first Monday of October 1890 at the opening of Court on that day or as soon thereafter as Counsel can be heard for an order granting the relief prayed for in the said petition and for such other and further relief as to the Court may seem just in the premises.

DATED NEW YORK SEPTEMBER 18 1890

Yours &c.

Purdy & McLaughlin

Attorney's for Petitioner

No. 230 Broadway

NEW YORK.

To:

John R. Fellows Esq.

District Attorney City and County of New York.

COURT OF COMMON PLEAS

OF THE CITY AND COUNTY OF NEW YORK

The People of the State of New York

vs.

Luther Lasher

Principal

and John A. Carnie

Surety

.....
To the Court of Common Pleas of the City and County
of New York.

The Petition of John A. Carnie the above named sur-
ety respectfully shows to this Court.

I. That on the 10th day of January 1889 the above
named Luther Lasher was committed to the City Prison to await
trial upon an indictment for Burglary in the 3rd degree Grand
Larceny in the 3rd degree and receiving stolen goods.

II. That on the 15th day of January 1889 the said
Luther Lasher was admitted to bail in the sum of One thousand
dollars by Hon. Henry A. Gildersleeve at that time one of
the Judges of the Court of General Sessions of the Peace of
the City and County of New York. And upon said day your pe-
titioner executed a bail bond in said amount and duly qual-
ified as surety for the appearance of said Lasher in the
Court of General Sessions for trial upon said indictment, and
the same was duly accepted and the said Lasher was discharged
upon said bail so given by your petitioner.

II. That on or about the 14th day of February 1889
your petitioner was notified to produce said Lasher in said
Court of General Sessions on the 15th day of February 1889,
which your petitioner was unable to do although he exerted

which your petitioner was unable to do although he exerted all due diligence and effort to comply with the requirements of said notice.

IV. That on the 15th day of February 1889 the Hon. Rufus B. Cowing directed that the recognizance entered into by your petitioner for the appearance of said Lasher be forfeited and that judgement thereon for the amount thereof be ~~xxx~~ entered against your petitioner.

V. That judgement was on the 16th day of March 1889 entered in accordance with said last mentioned order in the office of the County Clerk of the City and County of New York in favor of the People of the State of New York and against your petitioner for the sum of One thousand dollars and execution issued thereon the same day.

VI. That on or about the 3rd day of April 1889 your petitioner paid the amount of said judgement to the Sheriff of this County and by said Sheriff was paid over to the District Attorney who in turn paid over same to the City Chamberlain on about the 8th day of April 1889.

VII. That on the 21st day of May 1890 the said Luther Lasher was produced before the Hon. Rufus B. Cowing one of the Judges of the Court of General Sessions in Part II thereof and after the recommendation of the Asst Dist. Attorney that such a plea be accepted said Luther Lasher plead guilty to Petit Larceny under said indictment and was sentenced ~~xxx~~ upon said plea ~~to xxxxxxxxxx~~ to the City Prison for the term of five days as appears by annexed certificate of Chief Clerk J. Sparks and that therefore the people have lost no rights by reason of the failure of your petitioner to produce the said ~~Luther~~ Lasher as required by the notice hereinbefore

mentioned and that the People of the State of New York were in as good position to prosecute him on the 21st day of May 1890 as they were when said failure occurred as appears by the certificate of the District Attorney hereto annexed.

VIII. That said failure was not wilful on the part of your petitioner and was not by the reason of the failure of your petitioner to exercise all due diligence and effort to comply with the same.

IX. That the fees of the Sheriff of the City and County of New York upon the execution issued on said judgment so docketed against your petitioner have been fully paid as appears by the certificate of the Sheriff also hereto annexed.

Wherefore your petitioner prays that an order may be entered vacating, discharging and setting aside the judgment for the sum of One thousand dollars entered against Luther Lasher as Principal and John A. Carnie as Surety in the office of the Clerk of the City and County of New York on the 16th day of March 1889 and directing the Clerk of the City and County of New York to vacate and discharge the said xxx judgement.

And your petitioner prays further for an order of this Court directing the City Chamberlain or such other officer in whose hands the amount paid by your petitioner as aforesaid in satisfaction of the before mentioned judgement to repay the same to your petitioner less such charges thereon as may be legal or just or that your petitioner have such other and further relief as to the Court may seem just in the premises.

DATED NEW YORK SEPTEMBER 18 1890

John A. Carnie

Purdy & McLaughlin

Attorney's for Petitioner

No. 280 Broadway.

New York.

City and County of New York ss:

John A. Carnie being duly sworn says that he is the petitioner above named, that he has read the foregoing petition and knows the contents thereof and that the same is true of his own knowledge except as to those matters therein stated to be alleged upon information and belief and as to those matters he believes it to be true.

Sworn to before me this

27th day September 1890

Abraham D. Levy

Com^r of Deeds

N.Y. County.

John A. Carnie

COURT OF GENERAL SESSIONS OF THE PEACE
OF THE CITY AND COUNTY OF NEW YORK.

The People of the State of New York

vs.

Luther Lasher

Principal

and John A. Carnie

Surety

I, John R. Fellows, District Attorney of the City and County of New York, do hereby certify that the People of the State of New York have ~~not~~ lost no rights by reason of the failure of the above named Luther Lasher to appear in pursuance of his recognizance, on the 15th day of February 1899, and that the said People were in as good position to prosecute him on the 31st day of May 1899 as they were when the said failure occurred.

And I hereby consent that the judgment herein on the 16th day of March 1899, on said forfeiture be vacated and set aside without further notice and

I hereby consent that an order be entered here in directing the Comptroller to pay to the petitioner the sum paid by petitioner in satisfaction of said judgment.

DATED NEW YORK

1899

District Attorney

POOR QUALITY
ORIGINAL

0363

COURT OF GENERAL SESSIONS OF THE PEACE
OF THE CITY AND COUNTY OF NEW YORK

-----:
The People of the State of New York :
: :

vs :
: :

Luther Lasher :
: :

Principal :
: :

and John A. Carnie :
: :

Surety :
-----:
: :

This is to certify that all Sheriff's fees and
charges in the above entitled matter have been paid.

DATED NEW YORK

1890

N. Y. C O M M O N P L E A S

----- x
: The People of the State of
: New York
: against
: Luther Lasher and John A.
: Carnie.
: ----- x

M E M O R A N D U M B R I E F.

The following facts appear from the affidavits
before the Court:

F I R S T:- That on February Term 1891, the defendants, on
due notice to the District Attorney, obtained from said Gen-
eral Term, an order that the Comptroller pay them One thous-
and dollars, the amount of a forfeited bond which the City
had collected from said defendants.

S E C O N D:- It is not disputed in Mr. Simms' affidavit of
October 9th 1891, on which he obtained the order to show
cause which we now seek to vacate.

T H I R D:- On or about April 12th 1891, Judge Bischoff,
on the application ex parte of the District Attorney, made
an order restraining the defendants from proceeding to collect
their money under the order of General Term of February 1891,
pending a hearing at May General Term.

F O U R T H:- At May General Term 1891, defendants' attor-
ney was present and ready to answer the District Attorney's

motion, but he did not appear.

F I F T H:- On July 6th 1891, on motion of defendants' attorney and on motion to the District Attorney, an order was made at Special Term, Hon. Henry W. Bookstaver, Justice presiding, vacating Judge Bischoff's order of April 12th 1891, which restrained the defendants from acting under their order of February Term 1891, which commanded the Comptroller to pay to them the money that they had paid him.

The proof of the facts stated in the foregoing, may be found in pp 3 & 4 of Mr. Simms' affidavit (District Attorney) on which plaintiff founded this present motion.

S I X T H:- Copies of said order of Judge Bookstaver of July 6th 1891, were duly served on the District Attorney and on the Comptroller on July 7th 1891.

S E V E N T H:- They kept putting off the defendants with promises until suddenly they sprung this order on them of October 9th 1891, made ex parte, restraining them from collecting their just claim against the City.

OUR motion that said order of October 9th should be vacated, should be granted for the following reasons:

1st. The time to appeal from the order vacating the injunction has expired; the said order having been served on or about 7th of July, 1891, as appears by the affidavit of Charles E. Simms Jr., District Attorney.

2nd. It is an attempt to review at General Term an order of

Special Term, by means of an order to show cause returnable at General Term, made at Special Term long after the time to appeal has expired; in other words, it is an attempt by irregular means to extend time in which an appeal can be taken.

3rd. To make the matter clear, we set forth in chronological order, the events herein:

1891.
FEBRUARY. Order made at General Term vacating the judgment against them and ordering Comptroller to pay defendants the money collected thereunder

APRIL 12th. Order made by Hon. Henry Bischoff, Jr., on ex parte application of District Attorney, restraining and enjoining defendants from any proceeding to reap the benefit of said order.

JULY 6th. Order made by Judge Bookstaver on notice to District Attorney, which order vacates the ex parte order made by Judge Bischoff aforesaid.

The District Attorney in Simms' affidavit of October 9th 1891, admits specifically all the foregoing facts.

(See Simms' affidavit pp 3 & 4)

OCTOBER 9th. Ex parte order obtained from Judge Allen, again restraining defendants from realising on the orders of July 6th 1891.

POOR QUALITY
ORIGINAL

0367

The order of October 9th 1891, should be vacated.

Ambrose H. Purdy

Counsel for defendants.

N.Y. Common Pleas

The People of the
State of New York

against
Luther Lasher
& John A. Carnie

Brief for
depts.

Purdy & McManus
Attys for depts.

POOR QUALITY
ORIGINAL

0369

STATE OF NEW YORK,
STATE AND COUNTY OF NEW YORK, } ss.:

.....being duly
sworn, says that he resides at No. Street, in the City of
New York; that he is years of age; that on the day of
18....., at Number in the City of
New York, he served the within on
the by leaving a copy thereof with

Sworn to before me this
day of 18 }

N. Y. Court of Common Pleas

*The People of the State
of New York*

Plaintiff,

*against
Leather Lasher*

*John McCarnie
Defendant*

*Petition and Notice of
Motion for Remission
of Forfeiture*

PURDY & McLAUGHLIN,
Attorneys for Petitioner

No. 280 BROADWAY, New York City.

Due and timely served on of the within

this 27 day of 1891

by Attorney.

To John McCarnie

Dist. Atty.

May 3/90

POOR QUALITY
ORIGINAL

0370

STATE OF NEW YORK,
STATE AND COUNTY OF NEW YORK, } ss.:

..... being duly
sworn, says that he resides at No Street, in the City of
New York; that he is years of age; that on the day of
18....., at Number in the City of
New York, he served the within on
the by leaving a copy thereof with

Sworn to before me this
day of 18 }
.....

#1473.0
N. Y. Court of Common Pleas

The People of the State
of New York -
Plaintiff,

against
Leather Lasher
Prisoner
John M. Carnice
Defendant

Petition and Notice of
Motion for remission
of forfeiture

PURDY & McLAUGHLIN,
Attorneys for Petitioner
No. 280 Broadway, New York City.

Due and timely service of copy of the within
this 27 day of Sept 1899
by the undersigned
thereby admitted
Attorney.

To John M. Carnice
Dist. Atty.

Sept 27/90

The People *vs*
Lusher Lasher and
John A. Larnie

City & County }
of New York - }

John J. Molloy being duly sworn says: that he is over the age of 21 years and resides at 206 East 36th St New York City; that on the 21st day of March 1892 between the hours of 10 A.M. he served a copy of the annexed order and notice of entry thereof on Deputy Comptroller Storms of this City, at his office No 280 Broadway in said City by delivering to and leaving the same with him personally; that on the same days between the hours aforesaid he served a copy of the annexed order on Purdy & Mc Manus the attorneys for Luther Lasher & John A. Carmie, by delivering to and leaving the same with a person in charge of their office at No 280 Broadway this City... ~~during the absence of said Purdy & Mc Manus.~~

Sworn to before me }
this 2nd day of March 1892 } John J. Molloy
Chas. Ed. Dineen for
Notary Public N.Y.C.

Over.

A certified copy of the order and a notice of the entry thereof was filed in the Co. Clerk's office this 21st day of March 1892. and then record noted in pursuant to the direction in the order.

The Chamberlain refused to receive a certified copy as the ^{Deputy} Comptroller had been served with a copy.
March 21-92.

W. E. Simmons

Court of Common Pleas

The People vs

vs

Luther Lasher and
John A. Larnie.

Affidavit of Service
of Order and Notice of
entry thereof

DeLancey Knoll
Dist Atty
32 Chambers St
N.Y. City

POOR QUALITY
ORIGINAL

0373

The People, &c., v. Lasher and Carnie—I think this matter should be passed upon
by the General Term, and the motion is therefore denied, without costs.

N. Y. Law Journal.

Oct. 22, 91

People vs

vs

Carnie Dasher

— " —

Decision of Judge
Bookstaver denying
motion to vacate order
to show cause granted
Oct 9th / 91

New York Common Pleas. General Term.

The People of the State of New York
against
Luther Lasher,
Principal
and
John A. Carnie,
Surety.

Bischoff, Jr. J.

Laws of 1882, Chapter 40, section 1482, require as a condition of the granting of this application, that the expense if any incurred in the apprehension or recapture of the principal and the costs and expenses of the proceedings to enforce the forfeiture shall be paid.

See Code of Civil Procedure section 352.

The certificate of the District Attorney in this application does not show that the above requirements have been complied with.

On production and filing of a proper certificate this application should be granted.

Concur

J. R. D. J.

R. A. B. J.

Court of Common Pleas
of the City and County of New York.

-----x
The People of the State of New York ;
against ;
Luther Lasher, ;
Principal ;
and ;
John A. Carnie, ;
Surety. ;
-----x;

TAKE NOTICE that upon the annexed petition and
upon all the proceedings heretofore had herein the under-
signed will move this Court at a General Term thereof to
be held at the Court House in the City of New York on
the first Monday of November, 1890, at the opening of
Court on that day or as soon thereafter as counsel can be
heard for an order granting the relief prayed for in the
said petition and for such other and further relief as to
the Court may seem just in the premises.

Dated New York September 18, 1890.

Yours, &c.

Purdy & McLaughlin,

Attorney for Petitioner

No. 280 Broadway,

New York.

To

John R. Fellows, Esq.

District Attorney City and County of New York.

Court of Common Pleas
of the City and County of New York.

The People of the State of New York ;
;
against ;
;
Luther Lasher, ;
Principal ;
and ;
John A. Carnie, ;
Surety.

To the Court of Common Pleas
of the City and County of New York.

The petition of John A. Carnie, the above named surety, respectfully shows to this Court

I. That on the 10th day of January, 1889, the above named Luther Lasher was committed to the City Prison to await trial upon an indictment for Burglary in the third degree, grand larceny in the third degree and receiving stolen goods.

II. That on the 15th day of January, 1889, the said Luther Lasher was admitted to bail in the sum of \$1,000 by Hon. Henry A. Gildersleeve, at that time one of the Judges of the Court of General Sessions of the Peace of the City and County of New York. And upon said

day your petitioner executed a bail bond in said amount and duly qualified as surety for the appearance of said Lasher in the Court of General Sessions for trial upon said indictment, and the same was duly accepted and the said Lasher was discharged upon said bail so given by your petitioner.

III. That on or about the 14th day of February, 1889, your petitioner was notified to produce said Lasher in said Court of General Sessions on the 15th day of February, 1889, which your petitioner was unable to do, although he exerted all due diligence and effort to comply with the requirements of said notice.

IV. That on the 15th day of February, 1889, the Hon Rufus B. Cowing directed that the recognizance entered into by your petitioner for the appearance of said Lasher be forfeited and that judgment thereon for the amount thereof be entered against your petitioner.

V. That judgment was on the 16th day of March, 1889, entered in accordance with said last mentioned order in the office of the County Clerk of the City and County of New York in favor of the People of the State of New York and against your petitioner for the sum of \$1,000, and execution issued thereon the same day.

VI. That on or about the 3rd day of April, 1889, your petitioner paid the amount of said judgment to the sheriff of this county and by said sheriff was paid

over to the District Attorney who in turn paid over the same to the City Chamberlain on about the 8th day of April, 1880.

VII. That on the 21st day of May, 1890, the said Luther Lasher was produced before the Hon. Rufus B. Cowing, one of the judges of the Court of General Sessions in Part II thereof, and after the recommendation of the Asst. Dist. Attorney that such a plea be accepted said Luther Lasher plead guilty to petty larceny under said indictment and was sentenced upon said plea to the City Prison for the term of five days, as appears by annexed certificate of Chief Clerk J. Sparks, and that therefore the People have lost no rights by reason of the failure of your petitioner to produce said Lasher, as required by the notice hereinbefore mentioned, and that the People of the State of New York were in as good position to prosecute him on the 21st of May, 1890, as they were when said failure occurred, as appears by the certificate of the District Attorney hereto annexed.

VIII. That said failure was not willful on the part of your petitioner and was not by reason of the failure of your petitioner to exercise all due diligence and effort to comply with the same.

IX. That the fees of the Sheriff of the City and County of New York, so deducted against your petitioner, have been fully paid as appears by the certificate of the Sheriff also hereto annexed.

Wherefore your petitioner prays that an order may be entered vacating, discharging and setting aside the judgment entered for the sum of \$1,000 entered against Luther Lasher as Principal and John A. Carnie as Surety in the office of the Clerk of the City and County of New York on the 16th day of March, 1889, and directing the Clerk of the City and County of New York to vacate and discharge the said judgment.

(cic)
And your petitioner prays further for an order of this Court directing the said Chamberlain or such other officer in whose hands the amount paid by your petitioner as aforesaid in satisfaction of the before mentioned judgment to repay the same to your petitioner less such charges thereon as may be legal or just or that your petitioner have such other and further relief as to the Court may seem just in the premises.

Dated New York September 18, 1890.

John A. Carnie.

Purdy & McLaughlin,

Attorneys for Petitioner.

No. 280 Broadway, New York.

City and County of New York, ss.

JOHN A. CARNIE, being duly sworn, says:

That he is the petitioner above named. That he has read the foregoing petition and knows the contents thereof and that the same is true of his own knowledge

Wherefore your petitioner prays that an order may be entered vacating, discharging and setting aside the judgment entered for the sum of \$1,000 entered against Luther Lasher as Principal and John A. Carnie as Surety in the office of the Clerk of the City and County of New York on the 16th day of March, 1889, and directing the Clerk of the City and County of New York to vacate and discharge the said judgment.

(c/c)
And your petitioner prays further for an order of this Court directing the said Chamberlain or such other officer in whose hands the amount paid by your petitioner as aforesaid in satisfaction of the before mentioned judgment to repay the same to your petitioner less such charges & costs as may be legal or just or that your petitioner have such other and further relief as to the Court may seem just in the premises.

Dated New York September 18, 1890.

John A. Carnie.

Purdy & McLaughlin,

Attorneys for Petitioner.

No. 280 Broadway, New York.

City and County of New York, ss.

JOHN A. CARNIE, being duly sworn, says:

That he is the petitioner above named. That he has read the foregoing petition and knows the contents thereof and that the same is true of his own knowledge

**POOR QUALITY
ORIGINAL**

0382

except as to those matters therein stated to be alleged
upon information and belief and as to those matters he
believes it to be true.

Sworn to before me this 27th
day of September, 1800.

John A. Carnie.

Abraham D. Levy,

Commr of Deeds,

N. Y. Co.

Court of General Sessions of the Peace
of the City and County of New York.

-----X
The People of the State of New York ;
against ;
Luther Hasher, ;
Principal, ;
and ;
John A. Carnie, ;
Surety. ;
-----X

This is to certify that all Sheriff's fees and
charges in the above entitled matter have been paid.

Dated New York October 16th, 1890.

Patk. M. Ferrigan.

Dept. Sheriff.

Court of General Sessions of the Peace
of the City and County of New York.

-----X
The People of the State of New York ;
against ;
Luther Lasher, ;
Principal ;
and ;
John A. Carnie, ;
Surety. ;
-----X

I, John R. Fellows, District Attorney of the
City and County of New York, do hereby certify that The
People of the State of New York have lost no rights by
reason of the failure of the above named Luther Lasher
to appear in pursuance of his recognizance on the 15th
day of February, 1880, and that the said People were in
as good position to prosecute him on the 21st of May,
1880, as they were when the said failure occurred.

1 (sic)
And I hereby consent that the judgment herein
on the 16th day of March, 1880, on said forfeiture be va-
cated and set aside without further notice and

I hereby consent that an order be entered here-
in directing the Comptroller to pay to the petitioner the
sum paid by petitioner in satisfaction of said judgment.

Dated New York, Oct. 28, 1890.

J. R. Fellows.

District Attorney.

Court of General Sessions of the Peace.

Clerk's Office.

October 16, 1880.

The People against Luther ;	
Lasher, impleaded, &c ;	On indictment for bur- glary third degree.

(Filed October 13, 1888)

I hereby certify that it appears from the records of said Court, that the defendant Luther Lasher, was arraigned in said Court on the 21st of May, 1880, and by leave of the Court and counsel of the District Attorney, the defendant pleaded guilty of petty larceny, and was sentenced to the City Prison for the term of five days.

(L. S.)

J. Sparks

Clerk.

POOR QUALITY
ORIGINAL

0386

The People v

vs
Guthrie Foster
Principal
and John A. Garret
Society
— 11 —

The People
vs.
Gustavus Yauch.

Court of General Sessions, Part I.
Before Judge Cowing.

Tuesday February 19, 1889.

Jointly indicted with Rollard C. Jaffrey and Luther Lasher for burglary and grand larceny.

A Jury was empannelled and sworn.

Eli A. Kellam sworn and examined by Asst. Dist.

Atty. Goff.

Q. Where do you reside. Captain.

A. No. 735 East 134th Street.

Q. What is your business.

A. Steamboat pilot.

Q. In whose employ are you.

A. The New Haven Railroad.

Q. How long have you been in that employ.

A. Five years the first of last July.

Q. The New York, New Haven and Hartford Railroad is the correct description of the company.

A. Yes sir.

Q. Where do you discharge your duties as captain.

A. On one of the tugs of the company.

Q. Well, describe to the jury just what those tugs do so that they will understand, where they start from, where they go to, etc.

A. They tow between Harlem River and Jersey City, car floats, floats that have freight cars on. We take them in tow, make them fast alongside the tug and we take them over to Jersey City and there they are unloaded and re-loaded again and we take them back again to Harlem River.

Q. When you take the cars on at Harlem River they are laden

with freight.

A. Yes sir.

Q. And those cars coming to the Harlem River Station from all points east.

A. Yes sir.

Q. Do you have floats on each side of your tug-boat, Captain?

A. Sometimes.

Q. When you take those floats in tow you are in charge, in command of the whole flotilla.

A. Yes sir.

Q. Now you remember the evening of the 8th of October last.

A. Yes sir.

Q. What time did you leave Harlem River on that evening.

A. About six o'clock.

Q. In charge of a float.

A. Yes sir.

Q. Had you more than one.

A. One float.

Q. Will you state the hands that you had under you on that float boat on that trip .

A. Well, there was an engineer by the name of Lasher and a deck hand by the name of Cleary and a second deck hand by the name of Yauch.

Q. Is that the defendant at the bar.

A. Yes sir; and a cook, his name is Frank Cole and ^{the} a fire men, I do not remember what their names are, they are Swedes, I do not remember their names.

Q. Now those were all employees of the company under your direction and control there.

A. Yes sir, and this float-man Jaffrey.

Q. And these cars were in your charge as captain of that tug and float.

A. Yes sir.

Q. When you reached a point in the East River about 17th or 18th Streets in this city did you notice anything that attracted your attention.

A. I saw a light on the side of the car, one of the cars, a reflection looking as though it came through the door of another car, striking on the side of the car -- that was on the middle track of the float.

Q. Were there two lines of cars on this float.

A. Three.

Q. Three lines of cars and three tracks.

A. Yes sir.

Q. Were the three lines occupied with cars.

A. Yes sir.

Q. You were in the pilot house when this light attracted your attention.

A. Yes sir.

Q. Did this light come from the first, the middle one or the outside of one of the lines of cars.

A. It come from the track nearest to the tub.

Q. Was that your right hand or left hand side.

A. On the left port side.

Q. We will say the Brooklyn side.

A. Yes sir.

Q. When you saw the light what did you do if anything.

A. I told the deck hand to go over and see what it was, what was the cause of the light.

Q. The deck hand Cleary.

A. Yes sir. He went over and came back.

Q. Don't state what he said, Captain, you are not allowed to do that, he came back and told you something, did he not.

A. Yes sir.

Q. As the result of what he told you what did you do.

A. I left him in charge of the boat and went over on the float.

Q. Just state what you did and what you saw when you went over on the float.

A. When I got onto the float I saw that the light that shed on this car come out of the door of a car, that the door was open and I went towards the door of the car, and when I got about half way I think from the end of the car to the door I saw someone go out of the door; then I went back again so as not to be seen and got between the two cars and while I was there this person passed by me.

Q. The Defendant at the bar.

A. Yes sir.

Q. Whom you saw get out of the car.

A. Yes sir; and my toe must have projected out past the platform some and I think he struck my toe as he passed because he immediately looked up and saw me standing there, but he passed on for a few feet after he saw me and then went back again to the car door and said something and two other men got out of the car.

By Mr. Goff. Q. Said something when he went back to the car door.

A. Yes sir.

Q. You did not hear what he said I presume.

A. No sir.

Q. And after he said this something the two men got out.

A. Got out of the car onto the deck of the float. I then got down off the platform of the car and went over to where they stood.

Counsel: Where who stood please designate.

By Mr. Goff. Q. The threemen.

A. The three men.

By the Court. Q. Lasher, Cleary and Yauch.

A. Lasher, Jaffrey and Yauch.

Q. Yauch being present.

A. Yes sir.

By a Juror. Q. Did you see the defendant get out of the car.

A. Yes sir.

By Mr. Goff. Q. Well, when you went over to them you recognized them.

A. I spoke to them and I asked them, what kind of work they called that? They did not any of them make any reply, but Jaffrey the floatman, he walked over to the float car that was on the middle track and held his head, bowed his head down on the car and put down something what he had in his arms or in his one arm and when I picked him up ----

Q. You went over after him.

A. I stood right there close to him when he laid the things down, and it proved to be some ^{books} ~~books~~ slippers and shoes. I took them over and put them in my room back of the pilot house on the tug and locked them up. Later he had went around toward the bow of the float and while he stood there he buttoned up his jumper what he had on, one of those checked jumpers, as though he had something under it.

I could not say whether he had anything under it or not but he was buttoning it up like a person would that had something to conceal. I went back and then after locking up the things what I got on to the float and in the direction that Yauch went after he got out of the car and when he was passing me I found some more ~~books~~^{books}, shoes and slippers, I took them over and locked them up with the others what I got and then I went down into the cabin and these three men were there.

Q. In your cabin.

A. Yes sir.

Q. That is Lasher, Jaffrey and the defendant.

A. Yes sir; so I asked them - I told them then that I was surprised to think that they would do such a thing, steal from the company that employed them and paid them. Lasher he seemed to be surprised to think that I would talk that way and he asked me what I meant? I told him it was not necessary to tell him what I meant, he knew.

By the Court. Q. This was in the presence of the defendant.

A. Yes sir; so I walked away from him and went up into the pilot-house to take the wheel from the deck-hand, and shortly after that the three men come up in the pilot-house.

Q. Yauch being one of the three.

A. One of the three, yes sir and Lasher he wanted to know what I was going to do? He says, "what you come down in the cabin I tried to bluff you, but there is no use of trying to deny the fact, you caught us and if we get arrested it means ten years"; and he wanted to know if I would not consent to let him go over on the float and fix

the car door and nobody would know anything about it. I would not consent to anything like that, and after he got tired he went out of the pilot-house and the float-man he commenced to cry.

Q. Who is the floatman.

A. Jaffrey; he said that his father was blind and his mother was dying and he just got married.

Counsel: I submit if your Honor please that all this conversation that took place between the floatman Jaffrey and Lasher with the Captain, as they demand a separate trial, that it has no connection with the defendant unless it was said in his presence.

By the Court. Q. The prisoner was present.

A. Yes sir.

The Court: I will allow it.

Q. Proceed, witness.

A. And Jaffrey wanted me -----

Q. What did he say.

A. He wanted me to let him go and not make any complaint.

Q. He told you to let him go and make no complaint.

A. Yes sir. I told him I did not take much stock in him, I told him I did not consider that that was his initiation in that business. Then after they got tired Yauch he wanted me to let -----

By Mr. Goff. Q. Give as near as you can the words.

A. He asked me to open the door, for me to unlock the door of the closet where those things was and to let him throw them overboard and that nobody would need to know it and that I would not need to know what became of them. I did not consent to that; he persisted in that for some time

and when we got to Jersey City the engineer and the float-
man they were out on the bow of the float and before the
float was fast to the dock at all they jumped off. I un-
derstood that after. I went down in the kitchen after we
got made fast to get a cup of coffee and the prisoner
Yauch -----

Mr. Goff: We have got this property in question which the captain
has described now in court.

The Court: Boots, slippers and shoes.

Mr. Goff: As it is a mere pro formo matter we have some witnesses
men of business, we would like to discharge; I would ask
the Counsel if there is to be any question raised as to
its value.

Counsel: There will be.

Mr. Goff: We will have to prove it.

The Court: So far as the first count is considered burglary, the
question of value is not material.

Witness: Yauch come in the kitchen and in the presence of the
cook Frank Cole, begged me to let him go.

By the Court. Q. What did he say.

A. He asked me to let him go, he said he would go away to sea
and he said he knew his folks would feel bad about it and
if I would consent to not make any charge or any complaint
that he would stay on the boat, that he would not go away.
On account of the other two men getting away I led him to
believe that I would not make any complaint, so as to keep
him on the boat until we got to Harlem River.

Counsel: Give the language of the young man, it is a conclusion
of yours.

By Mr. Goff. Q. As near as you can Captain, give the words that were uttered by both.

A. He said that if I would take a message to his folks, that if I persisted in making a complaint he wanted me to take a message to his folks and try and fix things up so that the people would not know what was the cause of him going away and that he would go to sea. I did not think it would be policy ----

Counsel: I object to that.

The Court: Never mind about the policy, tell what was said.

By Mr. Goff. Q. Was anything said about firing the car by anyone.

A. No sir.

Q. He fixed the car -- I was mistaken when I said to the Jury that they proposed firing the car -- fixed the car it was.

A. Yes sir.

Q. Now did you examine the car, Captain.

A. I did, yes sir.

Q. In what condition did you find this car.

A. I found that they had drawn the staple from the door of the car and so got in, I did not examine the contents of the car.

Q. You examined the door and the fastenings.

A. I examined the door, yes sir.

Q. You found the staple had been drawn.

A. Yes sir.

Q. When you went back to the car was the door open or had it been closed.

A. No, I closed the door.

Q. You found it open and the staple drawn and you closed over the door.

9 A. Yes sir, I closed over the door and put the clasp or hasp

put that back and stuck the staple in the door the best I could.

Q. In the hole out of which it had been drawn.

A. Yes sir.

Q. Did you tell the defendant that you saw him with the goods in his hands, and you could not hush this matter up or words to that effect.

A. No sir.

Q. Did you tell any of the three men in the kitchen.

A. No, I did not tell him that, I did not tell him that I saw him with the goods in his hand.

Q. Well, was anything said of that kind in his presence to either of the others.

A. Not that I know of.

Q. There is what is known as a seal upon those cars, is there not.

A. Yes sir.

Q. Was the seal broken.

A. No sir.

Q. The seal is put in through the hasp.

A. Yes sir, or wire.

Q. And when the staple is drawn out then the door can be opened without breaking the seal.

A. Yes sir.

Q. The seal hangs from a bit of wire.

A. It is a lead seal with a wire passed through.

Q. You brought the defendant back to Harlem River and gave him in charge of an officer there.

A. Yes sir.

0397

Mr. Goff: It is conceded that it is worth over twenty-five dollars.

The Court: It is grand larceny in the first degree in the night-time.

time.

2/22/23

2/23/23

2/24/23

2/25/23

2/26/23

2/27/23

2/28/23

2/29/23

2/30/23

3/1/23

3/2/23

3/3/23

3/4/23

3/5/23

3/6/23

3/7/23

3/8/23

3/9/23

3/10/23

3/11/23

3/12/23

3/13/23

3/14/23

3/15/23

3/16/23

3/17/23

3/18/23

3/19/23

3/20/23

3/21/23

3/22/23

3/23/23

3/24/23

3/25/23

3/26/23

3/27/23

3/28/23

3/29/23

3/30/23

3/31/23

4/1/23

4/2/23

4/3/23

4/4/23

4/5/23

4/6/23

4/7/23

4/8/23

4/9/23

4/10/23

4/11/23

4/12/23

4/13/23

4/14/23

4/15/23

4/16/23

4/17/23

4/18/23

4/19/23

4/20/23

4/21/23

4/22/23

4/23/23

4/24/23

4/25/23

4/26/23

4/27/23

4/28/23

4/29/23

4/30/23

5/1/23

5/2/23

5/3/23

5/4/23

5/5/23

5/6/23

5/7/23

5/8/23

5/9/23

5/10/23

5/11/23

5/12/23

5/13/23

5/14/23

5/15/23

5/16/23

5/17/23

5/18/23

5/19/23

5/20/23

5/21/23

5/22/23

5/23/23

5/24/23

5/25/23

5/26/23

5/27/23

5/28/23

5/29/23

5/30/23

5/31/23

6/1/23

6/2/23

6/3/23

6/4/23

6/5/23

6/6/23

6/7/23

6/8/23

6/9/23

6/10/23

6/11/23

6/12/23

6/13/23

6/14/23

6/15/23

6/16/23

6/17/23

6/18/23

6/19/23

6/20/23

6/21/23

6/22/23

6/23/23

6/24/23

6/25/23

6/26/23

6/27/23

6/28/23

6/29/23

6/30/23

7/1/23

7/2/23

7/3/23

7/4/23

7/5/23

7/6/23

7/7/23

7/8/23

7/9/23

7/10/23

7/11/23

7/12/23

7/13/23

7/14/23

7/15/23

7/16/23

7/17/23

7/18/23

7/19/23

7/20/23

7/21/23

7/22/23

7/23/23

7/24/23

7/25/23

7/26/23

7/27/23

7/28/23

7/29/23

7/30/23

7/31/23

8/1/23

8/2/23

8/3/23

8/4/23

8/5/23

8/6/23

8/7/23

8/8/23

8/9/23

8/10/23

8/11/23

8/12/23

8/13/23

8/14/23

8/15/23

8/16/23

8/17/23

8/18/23

8/19/23

8/20/23

8/21/23

8/22/23

8/23/23

8/24/23

8/25/23

8/26/23

8/27/23

8/28/23

8/29/23

8/30/23

8/31/23

9/1/23

9/2/23

9/3/23

9/4/23

9/5/23

9/6/23

9/7/23

9/8/23

9/9/23

9/10/23

9/11/23

9/12/23

9/13/23

9/14/23

9/15/23

9/16/23

9/17/23

9/18/23

9/19/23

9/20/23

9/21/23

9/22/23

9/23/23

9/24/23

9/25/23

9/26/23

9/27/23

9/28/23

9/29/23

9/30/23

10/1/23

10/2/23

10/3/23

10/4/23

10/5/23

10/6/23

10/7/23

10/8/23

10/9/23

10/10/23

10/11/23

10/12/23

10/13/23

10/14/23

10/15/23

10/16/23

10/17/23

10/18/23

10/19/23

10/20/23

10/21/23

10/22/23

10/23/23

10/24/23

10/25/23

10/26/23

10/27/23

10/28/23

10/29/23

10/30/23

10/31/23

11/1/23

11/2/23

11/3/23

11/4/23

11/5/23

11/6/23

11/7/23

11/8/23

11/9/23

11/10/23

11/11/23

11/12/23

11/13/23

11/14/23

11/15/23

11/16/23

11/17/23

11/18/23

11/19/23

11/20/23

11/21/23

11/22/23

11/23/23

11/24/23

11/25/23

11/26/23

11/27/23

11/28/23

11/29/23

11/30/23

12/1/23

12/2/23

12/3/23

12/4/23

12/5/23

12/6/23

12/7/23

12/8/23

12/9/23

12/10/23

12/11/23

12/12/23

12/13/23

12/14/23

12/15/23

12/16/23

12/17/23

12/18/23

12/19/23

12/20/23

12/21/23

12/22/23

12/23/23

12/24/23

12/25/23

12/26/23

12/27/2

13

Testimony in the case
of ~~Hauch~~
Gustavus ~~Hauch~~

Oct 4th 1888
filed

AND COSTS: I am hereby ordered that the costs of this case be paid by the defendant.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Court at New York, this 10th day of October, 1888.

COMMISSIONER: C. J. VAN DYKE, Clerk of the Court.

No. 2.

409

~~TO THE CHIEF CLERK.~~

Please send me the Papers in the Case of
PEOPLE

vs.

Sasher & Carrie

~ ~ ~
A copy of the annexed
order to show cause and
injunction was served
on Deputy Comptroller Storrs
Dunbrose H. Rudy and Deputy
Chamberlain Campbell in
their respective offices on this
10th day of October 1891
between the hours of 10 and
11 A.M., by delivering to
each of them a copy of said
order & the affidavit upon
District Attorney.
which it was granted and
by showing them the original
with the judges signature
thereon.

Dated Oct 10/91

Chas Ed Simms Jr
Deputy Asst District

P r e s e n t :

" " " " " " " " " " " " " " " " " " " " "

The People of the State of New York

--agst--

Luther Lasher, Principal, and John A.
Carnie, Surety.

" " " " " " " " " " " " " " " " " " " " "

O R D E R E D that so much of the order made
herein at Special Term on the day of April, 1891.

(Hon. Henry Bischoff, Jr., Justice, presiding), as restrained the defendant, John A. Carnie, and his attorneys, Purdy and McLoughlin, or any other agent or representative, from demanding or receiving or in any manner intermeddling with the money now in the possession in this matter of either the Comptroller of the City and County of New York, or The City Chamberlain, be vacated and set aside.

Notice of settlement

Sir: Please take notice that the foregoing order will be presented for settlement to Hon. H. Bischoff at Chambers of the Court of Common Pleas at the Court House in the City of New York on the 6th day of July 1891 at 10.30 A.M.

Yours etc.

*J. DeFauy, Trial Eq.
Dist Atty*

*Purdy & McLoughlin
attys for Carnie*

ALITY

0402

RULES
OF THE
COURT OF COMMON PLEAS
OF THE
CITY AND COUNTY OF NEW YORK.
GOVERNING THE
GENERAL TERMS.

NEW YORK:
MARTIN B. BROWN, PRINTER AND STATIONER,
49 & 51 PARK PLACE.
1887.

David Wheeler
May 1891

RULES
OF THE
COURT OF COMMON PLEAS
OF THE
CITY AND COUNTY OF NEW YORK.
GOVERNING THE
GENERAL TERMS.

NEW YORK:
MARTIN B. BROWN, PRINTER AND STATIONER,
49 & 51 PARK PLACE.
1887.

**POOR QUALITY
ORIGINAL**

0404

COURT OF COMMON PLEAS.

GENERAL TERMS.

RULE I.

There shall be a General Term of the Court, held in the months of January, March, May, and November, commencing on the first Monday in each month.

RULE II.

All appeals must be placed on the Calendar and numbered. A note of issue of cases for the General Term Calendar must be filed with the Clerk for each Term, at least Eight Days before the first day of the Term; but no case on appeal from a District Court will be put on the Calendar unless the return has previously been filed, and all such cases will be put upon the Calendar in the order in which the returns have been filed.

Appeals from City Court shall be governed by the same rules applicable from this Court to the Court of Appeals.

RULE III.

The Calendar will be called through on the first Monday of the Term; and appeals may be then set down for argument for any day in the first and second weeks of

the Term, other than from District Courts; causes in these Courts must be ready for argument when reached in their order upon the Calendar, and will not be set down for any particular day.

RULE IV.

The pages of the evidence forming part of the return of a Justice of a District Court must be correctly numbered, and the numbers must appear at the bottom of the page.

The appeal may be dismissed if this rule be not complied with.

RULE V.

Motions to correct and strike causes from the Calendar, and for judgment under Rule 41 of Supreme Court, will be heard on the first day of Term. In cases of appeals from orders, the appellant shall serve upon the respondent, at least eight days before the first day of the Term, a complete copy, written or printed, of the papers upon which the appeal is to be heard.

RULE VI.

In all appeals from orders and judgments other than from the District Courts, the parties shall deliver *five copies* of the *printed papers and points* to the Clerk at the commencement of the argument.

RULE VII.

In appeals from District Courts, each party shall briefly state upon his points (written or printed) in a separate

form, the leading facts which he deems established, with reference to the folios where the evidence of such facts may be found.

RULE VIII.

No counsel shall occupy more than fifteen minutes in arguing an appeal from an Order, unless by permission of the Court.

RULE IX.

In appeals from the District Courts, if the appellant does not procure the return to be made to this Court within the time prescribed in section 3053 of the Code of Civil Procedure, the respondent may serve a notice in writing, requiring the same to be done within ten days thereafter, and that in default thereof he will apply to the Special Term for an order dismissing the appeal; and upon proof of the service of such notice, and of a non-compliance therewith, such order will be granted, unless the Court grant further time for the filing of such return.

RULE X.

If the Court below shall not make the return to this Court, as prescribed by the Code, the appellant may apply by motion to a Judge at Chambers to compel such return, by attachment.

RULE XI.

All motions to open defaults taken at the General Term must be made at the Special Term. Motions to dismiss appeals, except as otherwise provided for in Rule IV., must be made at Special Term.

RULE XII.

Where the return of the Justice of the District Court, from whose judgment the appeal is taken to this Court, has been *lost* and that the said Justice is *dead*:

Ordered, That the appeal be marked off for the term, and in conformity with the 3056 section of the Code of Civil Procedure, that the attorney for the appellant prepare a case containing a statement under oath of the evidence taken, and of the proceedings had upon the trial before the Justice, from such information as he can obtain, and that he serve a copy of the said case, so made as aforesaid, upon the attorney for the respondent, with a notice of motion of at least four days to be made at Special Term of this Court, that said case so prepared as aforesaid be filed in the office of the Clerk of this Court in the place of the return of the said deceased Justice; or if lost as aforesaid, said case to be made and said notice of motion to be served within *ten* days from the entry of the order, and on the return of said motion the respondent may appear at the Special Term and present an affidavit controverting any of the facts in said statement.

The case and affidavits shall thereupon be filed in the office of the Clerk of this Court, when the appeal shall be placed on the Calendar of the date of filing the same, and upon the hearing of the appeal, either of the parties may examine witnesses before the Appellate Court, in respect to any matter in said statement that may have been contradicted, and, after hearing said witnesses, the Appellate Court will find the question of fact in con-

troversy, and its finding shall be incorporated with and become a part of the case or statement upon which the appeal is to be heard. All matter contained in the statement and verified by the moving party which shall not be specifically controverted by the affidavit of the other party shall be deemed settled, and as of the same effect as if the same had been returned by the Justice in his lifetime.

RULE XIII.

All applications to this Court to remit fines and forfeited recognizances, and to correct or discharge the dockets of liens and judgment entered upon recognizances, shall be made at the General Term. The applications shall be upon affidavits and upon a notice of eight days to the District Attorney, and may be made returnable on any day of term during the sitting of the Court. Pending such applications, a stay of proceedings upon any such judgment may be applied for at Special Term.

RULE XIV.

In all cases heard and decided by the General Term, orders must be settled and signed by one of the Judges taking part in the decision, and no judgment can be entered until such an order is made and entered in the minutes of the Court.

RULE XV.

When any order is obtained at Special Term under General Rules No. 6 or 8, a certified copy of the order must be served on the *Clerk of the General Term*.

RULE XVI.

All motions for re-argument must be submitted on papers, showing clearly that some question, decisive of the case, and which was presented by counsel upon the argument, has been overlooked by the Court; or that the decision is inconsistent with some statute, or with a controlling decision, to which the attention of the Court was not drawn through the neglect or inadvertence of counsel (*Mount v. Mitchell*, 32 N. Y., 702).

ORDER OF CALENDAR.

1. Motions and Appeals from Orders.
2. Appeals from Judgments of this Court and Referees in this Court.
3. Appeals from the Marine Court.
4. Appeals from the District Courts.
5. All Notes of Issue *must* be filed for each Term at least eight days before the first day of the Term, and must contain the *title in full*, the nature of the *Appeal*, the *date of issue*, with the attorney's names.
6. If on Appeal from an *Order* or Judgment, the note must, in addition, state the *name of the Judge* by whom the Order was made or Judgment rendered at *Special Term*, the date of same, and the *nature* thereof.

7. In Appeals from *District Courts* the Notes of Issue must state from what District, and if the return be filed, must give *the date of filing thereof*.

8. No case will be placed on the Calendar unless the return shall have been filed at least eight days before the *first day* of the Term.

9. The General Term Calendar will be published in full in THE DAILY REGISTER on the first day of the Term, and on each subsequent day the Day Calendar will be published in said DAILY REGISTER, and any cause not appearing in said Day Calendar as so published will not be called or placed thereon.

NATHANIEL JARVIS, Jr.,
Clerk.

POOR QUALITY
ORIGINAL

0408



Court of General Sessions,
Judge's Chambers,
32 Chambers Street.

Recd Oct. 10/91

Mr. Simms -
Dist. Atty's Office,

0409

No. 2.

409

TO THE CHIEF CLERK.

Please send me the Papers in the Case of
PEOPLE

vs.

Judge Martin
Opinion

Affid & Orders -
April 16 - 91

Affid & order of
Oct 9/91

District Attorney.

Peo v Street
Opinion

Left with judge
Bookstaver Oct 14/91

Order of Gen. Term - Entered in Feb'y 1891

Present - Wm. Allen P.
H. M. Bischoff Jr. J.
Roger St. Payson J.

Order that judgment therefore entered against
Luther Lasher as Principal and J. John
Caney as Surety - for \$1000 each, be
vacated - and J. Comp. of City
Jury. to pay the \$1000 after deducting
all lawful charges and expenses
attendant upon forfeiture.

Order to show Cause - Special Term - April 1891

H. M. Bischoff Jr. J.

Order to show cause why judgment in
order of Feb'y 1891 should not be vacated & set aside
and why lien of judgment against Lasher
& Caney should not be removed & pending argument
restrains Caney & Alty. from demanding or
receiving or in any way intermeddling with money
in possession of Comp. in City Chamberlain &c.

Order Special Term - July 6th 1891

H. B. Bostlaven J.

Order that judgment of order of April 1891
as restraining Caney & Alty. from demanding
or receiving or in any manner intermeddling with
money in hands of Comp. in City Chamberlain &c.
be vacated and set aside.

0411

June 26 - 1891 Received of Mr. J. H. Mott
Mott for an order vacating the
order made on the day of April
1891 ~~received~~ on J. H. Mott's paper
A = 6 day of July order
made

July 3rd Order made on the
received on the part of the college of the
collected from the college of the
collected from the college of the

0412

FORM 2003.C.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

Harlem River, N.Y., Oct. 10th, 1888.

W.J.Crosby, Esq.,

Ass't Sup't, Harlem River, N.Y.,

Dear Sir:--

H.P.Clary, First Deckhand on Transfer No.5, having Float No.23 in tow, leaving Harlem River 6.10 P.M., Oct.8th 1888, en route to Harsimus Cove, states as follows:--

In the neighborhood of 7 o'clock P.M., when about abreast of 18th Street, East River, I was in the Pilot House, when my attention was called by Captain Kellam, who was steering at the time, to a light on the Float. I said it looked as if someone was in one of the cars. Captain Kellam agreed with me, and told me to go aboard the Float and find out what was going on. I went aboard the Float, and got within about 15 feet of the door of car B.& P. Car 7292. The door of the Car was open, and I could see a light shining inside. The car stood on the North, or outside, track of the Float, and the door on the South side, facing toward the middle track of Float, was open; we had the Float on Port side of Transfer No.5. As I got near the car I saw Floatman Jeffrey get out of it. I stepped between two cars to avoid being seen. He looked around, and then went forward on the Float, in the opposite direction from

FORM 2008.C.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

W.J.C. No.2)

where I stood. I got down under the car which had been opened, and in a few minutes he returned, and got into the car again. The light was still in the car while Jeffrey was out. I did not see the other two men implicated, however. I then crawled under the car aft of the open car, and made my way aboard the Tug. I had been on the Float about three minutes.

On reaching the Pilot House of Transfer No.5, I told Captain Kellam that Floatman Jeffrey had entered one of the cars on the float, and relieved the Captain at the wheel while he went aboard the Float to investigate. One man, whom I believe to have been Second Deckhand Yauch, returned from the Float ahead of Captain Kellam. I saw the Captain return from the Float, carrying the goods which had been abstracted from the car, in his arms.

I afterwards overheard Engineer Lasher admit that he was guilty, to Captain Kellam in the Pilot House. I also heard Floatman Jeffrey and Second Deckhand Yauch pleading with the Captain to let up on them, but heard no direct admission of guilt on their part. I continued on duty aboard Transfer No.5 to Harsimus Cove, and returned aboard her to Harlem River.

0414

FORM 2003.C.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

Harlem River, N.Y., Oct. 9th, 1888.

W.J. Crosby, Esq.,

Sup't, Harlem River,

Dear Sir:--

Captain E.A. Kellam of Transfer No. 5, having Float 23 in tow, enroute Harlem River to Harsimus Cove, states:

We left Harlem River 6.10 P.M., October 8th, 1888, and were off East 17th Street about 7 o'clock. I was at the wheel at that time, when my attention was attracted by the reflection of a light which appeared to be thrown from the inside of a car, through the open door. I called up Deckhand ^{Adams} Cleary, and told him to go on the float and see what was going on. I did not like to leave the wheel myself. Cleary went, and returned breathless, and said there was something wrong over there in the car. I told him I thought Floatman R.C. Jeffrey was going through one of the cars. He said Floatman Jeffrey was in the car. At this time we were about abreast of Grand Street, I then went on board the float, and stood on the bumpers between two cars, and from this position could see there was someone in B. & P. car 7292. I got down and started toward the car, and saw someone leave the car. I got between two cars, so as to escape notice. This man saw me standing there,

FORM 2008.C.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

W.J.C. (No.2)

and turned back and whispered to Floatman Jeffrey and Engineer Lasher, Jeffrey had his arms full of stolen goods, and Engineer Lasher was buttoning his jumper over something. They were out of the car by this time. When I was satisfied they had seen me, I walked over to the three men, and recognized them as R.C. Jeffrey, Floatman, Luther Lasher, Assistant Engineer, and Gus. Yauch, Second Deckhand. I asked them what kind of business that was.

I saw them get out of the car. I would have let them go on past if they had not discovered me. As it was, Floatman Jeffrey carried his things over to a Gondola car and laid them down. He seemed unable to answer when I spoke to him. Engineer Lasher sneaked off without saying anything. The three of them went on the Tug. I picked up the stuff that Floatman Jeffrey had laid down, and carried it aboard the Tug, and locked it up in the closet; and went back to the float, and got some more which had been dropped by Deckhand Yauch or Engineer Lasher. I got all the stuff, and then went to examine the car. I found the seal was not broken. They had drawn the staple. I returned to the Tug, and went into the cabin, where Engineer Lasher and Deckhand Yauch were, I told them I was surprised that men taking pay from the Company should

FORM 2008.C.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

W.J.C. (No. 3)

turn round and steal from them. Engineer Lasher asked me what I meant. I told him he knew what I meant. I did not want to say anything more than I could help. I then went to the Pilot House. Shortly afterward the three men implicated came to me, and Engineer Lasher said that it was no use to attempt a denial of the robbery. He said "You caught us dead to rights. It means ten years for us, if you report. Now there is only one way for us to get out of it, and that is, to throw the things overboard, and we will then fix the car up, and no one will know anything about it." I told them "I don't do business that way. If I do this, I will be guilty equally with you." He said "Do you mean to report?" I asked him what else he could expect. He said he did not blame me, as I was the man who was responsible. He added "I don't blame anybody but myself, for being a fool". Then the Floatman commenced to cry. He lay down and wept. He said his father was blind, his mother was dying, and he was just married. I said "You are a fine sucker anyhow. I don't take any stock in you. This is not your initiation." The boy Yauch, Second Deckhand, said his father was subject to apoplexy, and if he was arrested, the shock might kill the old man. He wanted me to let

FORM 2008.C.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

W.J.C. (No.4)

him off, and he would go to sea. I told him I had the things, and was going to turn them over to Assistant Superintendent Crosby in the morning. I told him I would not shield my own brother.

I went on to the Cove. Engineer Lasher, I understand, went and dressed himself in his best clothes, and as soon as the float got near enough, he and the Floatman, Jeffrey, got ashore at P.R.R. Company's dock, Harsimus Cove, Jersey City, N.J., and decamped. The Second Deckhand, Yauch, returned to Harlem River on the Tug, and was turned over by me to the Police authorities, 33rd Precinct Station House, this City.

E. A. Kellam
Capt Transfer W.R. 51

0418

B.D. 203

People

v.

Arthur Barker ~~and~~
R.C. Johnson
vs. ~~John Johnson~~

Smagans & Co

Yanch is valued by
in \$500 by

Wm Mansfield of
2995 3^d ave

Bond is on file in

Shank's office.

of Davis
33^d place

District Attorney's Office
McLennan
PEOPLE
vs.
Dickson Foster
Prisoner at
John & Francis
Paralel
Order warrant for the
y. dressing to be
city Court Jan 13/
19.

Jellous Cont dated Dec 9/89
concerning to refunding

Or Quiverl entered Mech 16/89
money deposited Apr 8/89

Cash, Indent, Jan 10/89
New York 3

Jan 15/89 Bank of England

Feb 10/89 no further
for a time. Feb 10/89
for further notice

3 Apr 1/89 paid thereof
8 Apr 89 left for (thunder)

May 21/89 Ran
for a time. 1st
second party paid
large sum (savings)
5 days

Memo. Feb 10/89
1/89

0421

District Attorney's Office.

PEOPLE

vs.

Luther Lasher
Principal

John A. Lammie
Security

Indicted Burglary 3rd deg
Jan 10/89

Bailed Jan 15/89

Forfeited Feb 15/89

Mr. Sparks:

Will you please
send me papers on
motion to vacate above
forfeiture, denied by
Judge Martine - I don't
know the date

Respectfully

Henry J. Lammie
Scribe

Phil W. Rogers
Central Office

Richard B. Pridmore
of H. P. Barnes
of John & Williams
Brest

The subpoena as makes
* can be delivered
to Mr. Wm. J. Crosby,
Superintendent of
the New Haven & Cto
Freight Depot

District Attorney's Office,

PEOPLE

28.

Guillaume Garuch
et al.

Sworn Witnesses

293 # Kellam

x. 735 East 134th St

W. 2 P. Cary

201 Third Street

✓ Jersey City

John J. Kinnally

596 Cart 135 *Ph*

Frederick Wagner

* 26 27 Third Ave.

Valentine Burke

763 West Norwalk Ave.
Norwalk, Ct. 06851

Jersey City Heights

William Walsh

240 Ninth Street
Berkeley, Calif.

Jersey City

0423

DETECTIVE BUREAU

Police Department of the City of New York

No. 800 MULBERRY STREET,

Stolen

NEW YORK,

Oct 8th 1888

2 Pairs shoes	10.00
2 Embroidered velvet slippers	5.00
6 Books of Poems	21.00

Gustavus Gauch
Roland C. Jaffrey
Luther Lasher

Lasher furniture was sold to ^{Corvanto} ~~Galeasanti~~ at
115th St & 3rd Oct 9th 1888

203. 130.

199

DISTRICT ATTORNEY'S OFFICE,

City and County of New York.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

Durham Wagner
Robert E. Wagner
Durham Wagner

Dated 188

188

Witnesses, W. E. Brown - Deed
Wagner no. 5, Madison St
Madison, N.Y. N. E. S. 1000 Street

E. A. Kellam, Clerk

No. same as above.

Street,

Admiral Davis

No. 332 - Racine Street

J. Wagner

J. L. Lammery

#1 Bailed

Wm. Mansfield

2995 - 3 Ave

Dr. 1 Bailed by

Maxine Kohnstein

125 West 42 St

#3

Bailed Jan. 15/89

By - John A. Carnie

223 West St.

POOR QUALITY
ORIGINAL

0424

0425

COUNTY OF NEW YORK, SS.

In the Name of the People of the State of New York, To any Sheriff, Constable,
Marshal or Policeman in this State, GREETING:

An indictment having been found on the 18th day of October
188 8, in the Court of General Sessions of the Peace, of the County of
New York, charging Luther Lasher

with the crime of Burglary in the third degree

You are therefore Commanded forthwith to arrest the above named Luther Lasher
and bring him before that Court to answer the indictment; or
if the Court have adjourned for the term, that you deliver him into the custody of the Keeper of the
City Prison of the City of New York.

New York City, the 18th day of Oct 188 8

By order of the Court,

[Signature]
Clerk of Court.

544 B. 2

N. Y. General Sessions of the Peace

THE PEOPLE
OF THE STATE OF NEW YORK,
against

Luther Lasher

Bench Warrant for Felony.

Issued October 18th 1888

The officer executing this process will make his
return to the Court forthwith.

Shelby

0427

COUNTY OF NEW YORK, SS.

In the Name of the People of the State of New York, To any Sheriff, Constable,
Marshal or Policeman in this State, GREETING:

An indictment having been found on the 18 day of October
1888, in the Court of General Sessions of the Peace, of the County of
New York, charging Luther Lasher

with the crime of Rape in third degree

Lasher You are therefore Commanded forthwith to arrest the above named Luther
and bring him before that Court to answer the indictment; or
if the Court have adjourned for the term, that you deliver him into the custody of the Keeper of the
City Prison of the City of New York.

New York City, the 27 day of Sept 1889

By order of the Court,

[Signature]
Clerk of Court.

3/2/3/2

POOR QUALITY
ORIGINAL

0428

N. Y. General Sessions of the Peace

THE PEOPLE
OF THE STATE OF NEW YORK,

against

Luther Lasker

Bench Warrant for Felony.

Issued

Sept 27 188 *9*

The officer executing this process will make his
return to the Court forthwith.

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042 1043 1044

10

11

11

13

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042 1043 1044 10

PRYOR, J.J.

Delancy Nicoll, for the People.

The petitioner, Charles Stanton, became the bondsman for Louis S. Street, who was charged in two indictments with offences under the penal code. The defendant having been called to answer the indictments, failed to appear, and his bail-bond was declared forfeited, and judgment for the amount thereof was entered against the petitioner on the 14th day of October 1889. The petitioner now makes an application asking this court to remit the forfeiture and vacate the judgment entered thereon.

It appears from the papers herein that on or about the 2nd day of October 1890, the petitioner made an application for the relief sought for, to the Hon. Randolph P. Martine, one of the Justices of the Court of General Sessions, which application was heard upon the merits and denied.

By Chap. 379, Laws 1878, as amended by Chap. 431, of Laws of 1879, Code of Crim. Pro. Section 597 and Laws 1882, Ch. 410, the Judges of the Court of General Sessions are given concurrent jurisdiction with this Court to entertain and determine an application for the remission of a recognizance and to vacate the judgment entered thereon. It follows that a petitioner seeking relief from a forfeiture of his recognizance, may make his application to this court or to any Judge of the Court of General Sessions. When, however, such an application has once been heard upon the merits and determined in either tribunal, it cannot be entertained by the other and thus in effect a review had of the former application in the absence of express authority therefor. The well settled principle of law that "the judgment of a court of concurrent jurisdiction directly upon the point is, as a plea, a bar, or as evidence, conclusive, between the same parties, upon the same matter, directly in question, in another court", (Greenleaf on Evid. Section 528; Duchess of Kingston's Case, 20 How. St. Tr. 528) should, in our judgment, be applied to adjudications of this character, for the judicial determination of a summary application authorized by statute is in effect a judgment, since it adjudicates the right of the applicant to the relief sought.

There is no difference in the rule of res adjudicata whether the first adjudication is made in a formal action or in proceedings summary in their character, because even where there is not a technical judgment in the latter, it is a judicial act; it is a duty confided to judicial officers to be exercised in a judicial way. The parties are heard, and their rights are settled by judicial determination.

Demarest vs. Dodd, 32 N. Y. 281,

Supervisors vs. Briggs, 2 Den. 33.

It is claimed by the petitioner that when the application was made to Judge Martine of the Court of General Sessions, certain facts mentioned in the affidavit of the said petitioner which is attached to his present application, were not presented. If that be the fact, the petitioner's remedy is to apply to that judge for a re-hearing of his application.

Application dismissed without costs.

0432

N. Y. Common Pleas.

.....

The People of the State of New
York,

-vs-

Louis S. Street,

.....

O P I N I O N.

.....

General Term, May 1891.

Concur :

Allen, J.

H. B. Jr.

R. A. P.

Filed June 1st 1891,

I. Jones, Clerk

0433

STATE OF NEW YORK,
STATE AND COUNTY OF NEW YORK, } ss.:

..... being duly
sworn, says that he resides at No. Street, in the City of
New York; that he is years of age; that on the day of
18, at Number in the City of
New York, he served the within on
the by leaving a copy thereof with

Sworn to before me this
day of

18

H. H. Count of Paul Stevens

The People etc

Plaintiff,

against

Luther Racker, Principal and

Defendant.

Jean C. Carmic

Society.

Notice of Motion, ~~admitted~~ to do
Attorneys for

PURDY & McLAUGHLIN,

Attorneys for

No. 280 BROADWAY, New York City.

Due and timely service of copy of the within

hereby admitted

this day of 18

John R. Freeman Attorney.

Edward R. Collins

Brooklyn

1897

PRESENT:

THE PEOPLE of the State of New York,
against
LUTHER LASHER, Principal, and JOHN A.
CARNIE, Surety.

O R D E R E D , to pay and return to the defendant John A. Carnie, the sum of One Thousand Dollars, the amount

POOR QUALITY
ORIGINAL

0435

2

paid by him in satisfaction of the judgment entered upon
said recognizance after deducting therefrom the amount of
all lawful charges and expenses attendant upon said for-
feiture on receipt of a certified copy of this order.

COURT OF GENERAL SESSIONS OF THE PEACE
of the City and County of New York.

.....x
THE PEOPLE of the State of New York, :
vs. :
LUTHER LASHER, Principal, and JOHN A. :
CARNIE, Surety. :
.....x

This is to Certify that all Sheriff's fees and
charges in the above matter have been fully paid.

Dated, New York, June 19 , 1890.

Pat D. McGuire
Deputy Sheriff.

COURT OF GENERAL SESSIONS OF THE PEACE
of the City and County of New York.

.....X
THE PEOPLE of the State of New York, :
vs. :
LUTHER LASHER, Principal, and JOHN A. :
GARNIE, Surety. :
.....X

This is to Certify that all Sheriff's fees and
charges in the above matter have been fully paid.

Dated, New York, June 19, 1890.

PATRICK J. FERRIGAN
Deputy Sheriff.

COURT OF GENERAL SESSIONS OF THE PEACE
Of the City and County of New York.

.....X
THE PEOPLE of the State of New York, :
vs. :
LUTHER LASHER, Principal and JOHN A. :
CARNIE, Surety. :
.....X

Take notice that upon the annexed petition and upon
all the proceedings heretofore had herein, the undersigned
will move this Court at Part *One* thereof, on the *28th* day
of *June* 1890, at the opening of the Court on that day or
as soon thereafter as Counsel can be heard, for an order
granting the relief prayed for in the said petition and for
such other and further relief as to the Court may seem just
in the premises.

Dated, New York, June 18th, 1890.

Yours, &c.,

Purdy & McLaughlin,

Attorneys for Petitioner,

No. 280 Broadway,

New York.

To

John R. Fellows, Esq.,

District Attorney,

City and County of New York.

COURT OF GENERAL SESSIONS OF THE PEACE
of the City and County of New York.

.....X
THE PEOPLE of the State of New York, :
vs. :
LUTHER LASHER, Principal, and JOHN A. :
CARNIE, Surety. :
.....X

TO THE COURT OF GENERAL SESSIONS OF THE PEACE
OF THE CITY AND COUNTY OF NEW YORK.

The petition of John A. Carnie, the above-named Sure-
ty, respectfully shows to this Court:

I . That on the 10th day of January, 1889, the
above-named Luther Lasher, was committed to the City Prison
to await trial upon an indictment for burglary in the 3rd
degree, grand larceny in the 3rd degree and receiving sto-
len goods, found by the Grand Jury of this County on or
about the 18th day of October, 1888.

I I . That on the 15th day of January, 1889, the
said Luther Lasher was admitted to bail in the sum of One
Thousand Dollars, by Hon. Henry A. Gildersleeve, at that
time one of the Judges of this Court. And upon said day
your petitioner executed a bail bond in said amount and
duly qualified as surety for the appearance of said Lasher
in the Court of General Sessions, for trial upon said in-
dictment, and the same ~~tax~~ was duly accepted and the said
Lasher was discharged upon said bail so given by your pe-
titioner.

POOR QUALITY
ORIGINAL

0440

2

paid by him in satisfaction of the judgment entered upon
said recognizance after deducting therefrom the amount of
all lawful charges and expenses attendant upon said for-
feiture on receipt of a certified copy of this order.

I I I . That on or about the 14th day of February, 1889, your petitioner was notified to produce said Lasher in said Court, on the 15th day of February, 1889, which your petitioner was unable to do, although he exerted all due diligence and effort to comply with the requirements of said notice.

I V . That on the 15th day of February, 1889, the Hon. Rufus B. Cowing directed that the recognizance entered into by your petitioner for the appearance of said Lasher, be forfeited and that judgment thereon for the amount thereof be entered against your petitioner.

V . That judgment was, on the 16th day of March, 1889, entered in accordance with said last mentioned order in the office of the County Clerk of the City and County of New York, in favor of the People of the State of New York, and against your petitioner, for the sum of One Thousand Dollars, and execution issued thereon the same day.

V I . That on or about the 3rd day of April, 1889, your petitioner paid the amount of said judgment to the Sheriff of this County, and by said Sheriff was paid over to the District Attorney, who in turn paid over same to the City Chamberlain on about the 8th day of April, 1889.

VII. That on the 21st day of May, 1890, the said Luther Lasher was produced before the Hon. Rufus B. Cowing, one of the judges of this Court, in Part II, thereof, plead guilty to petty larceny under said indictment, and was sentenced upon said plea, to the City Prison for the term of five days, as appears by annexed certificate of Chief Clerk, J. Sparks, and that therefore the People have lost no rights, by reason of the failure of your petitioner

to produce the said Lasher as required by the notice hereinbefore mentioned, and that the People of the State of New York were in as good a position to prosecute him on the 21st, day of May, 1890, as they were when said failure occurred, as appears by the Certificate of the District Attorney hereto annexed.

That said failure was not willful on the part of your petitioner, and was not by the reason of the failure of your petitioner to exercise all due diligence and effort to comply with the same.

That the fees of the Sheriff of the City and County of New York, upon the execution issued on said judgment so docketed against ^{your} petitioner have been fully paid, as appears by the Certificate of the Sheriff also hereto annexed.

W H E R E F O R E , your petitioner prays that an order may be entered, vacating, discharging and setting aside the judgment for the sum of One Thousand Dollars entered against Luther Lasher as Principal and John A. Carnie as Surety, in the office of the Clerk of the City and County of New York on the 16th day of March, 1889, and directing the Clerk of the City and County of New York to vacate and discharge the said judgment.

And your petitioner prays further for an order of this Court directing the City Chamberlain, or such other officer in whose hands the amount paid by your petitioner as aforesaid in satisfaction of the before-mentioned judgment, to repay the same to your petitioner less such charges thereon, as may be legal or just, or that your petitioner

have such other and further relief as to the Court may seem
just to the premises.

Dated, New York, June 18th, 1890.

Purdy & McLaughlin,
Attorneys for Petitioner,
No. 280 Broadway,
New York.

CITY AND COUNTY OF NEW YORK. : SS.

J O H N A . C A R N I E , being duly sworn,
says, that he is the petitioner above-named; that he has
read the foregoing petition and knows the contents thereof
and that the same is true of his own knowledge, except as
to those matters therein stated to be alleged upon infor-
mation and belief, and as to those matters he believes it
to be true.

Sworn to before me, this :

18th day of June, 1890. :

Abraham D. Levy
Commr of Deeds
N.Y. Co.

COURT OF GENERAL SESSIONS OF THE PEACE,
of the City and County of New York.

.....X
THE PEOPLE of the State of New York :
vs. :
LUTHER LASHER, Principal, and JOHN A. :
CARNIE, Surety. :
.....X

I, JOHN R. FELLOWS, District Attorney of the City and County of New York, do hereby certify that the People of the State of New York, have lost no rights by reason of the failure of the above-named Luther Lasher to appear in pursuance of his recognizance, on the 15th day of February, 1889, and that the said People were in as good a position to prosecute him on the 21st day of May, 1890, as they were when the said failure occurred.

And I hereby consent that the judgment entered herein on the 16th day of March, 1889, on said forfeiture be vacated and set aside without further notice, and

I hereby consent that an order be entered directing the City Chamberlain to pay to the petitioner the sum paid by said petitioner in satisfaction of said judgment.

Dated, New York, July 2, 1890.

[Handwritten signature]

J R Fellows
District Attorney.

0445

LV...

Court of General Sessions of the Peace,
City & County of New York.
Clerk's Office.

June 16th 1890.

The People }
vs. }
Luther Lasher }
Complainant }
Indictment for Burglary }
third degree }
(filed Oct. 18. 1888.)

I Certify that it appears from the Records
of said Court, that the recognizance of the
defendant was forfeited on the 15 day of
Febry 1889. afterwards the defendant was
arrested on a bench warrant April 20. 1890,
and committed to the City Prison
and May 21. 1890 the defendant pleaded guilty
to the crime of Petit Larceny and was sentenced
to the City Prison for the term of five days.

Wm. H. Hall
Clerk

No. 2. *Consol. Acc 58 1882 & 1883*
TO THE CHIEF CLERK.

Please send me the Papers in the Case of
PEOPLE

vs.

Jan 10 - 1887. Committed

" 15 - " Ad. to bail.

Feb. 15. " Called for trial

Mar. 16. " ~~judgment~~

April 3 " paid

May 2 1890 ~~Washer Return~~

July 2 - 1890 Motion to remit

Sept 16 - 1890 Decree - Denied

Sept 29 " Appln to S. J.
to remit forfeiture

Feb 3 - 1891 ^{District Attorney} Order of S. J.

Apr. 16 - 1891 Order to Show

Oct 9 - 1891 present O to S

0447

M. J. Jernard & Son
vs. People et.

Plaintiff,

against

Arthur Ruden Principal
and John A. Conner Defendant.
Surety

Notice of Motion, Affidavits et.

July 21 1900
PURDY & McLAUGHLIN,

Attorneys for

No. 280 Broadway, New York City.

Deputy service of copy of the within
hereby admitted
this 20 day of *June* 18*99*
Attorney.

Handwritten signature
Handwritten signature

18

day of

Sworn to before me this

Sworn, says that he resides at No. _____
New York; that he is _____ years of age; that on the _____
18 _____, at Number _____
New York, he served the within _____ on _____
the _____ by leaving a copy thereof with _____
_____ in the City of _____
_____ Street, in the City of _____
_____ being duly

STATE OF NEW YORK,
SS.: } STATE AND COUNTY OF NEW YORK,

POOR QUALITY
ORIGINAL

0448

By DALY, C.J., and BISCHOFF, JR., J.

The People v. Lasher & Carnie—Motion by the District Attorney to vacate the order of February 3, 1891, and to reinstate the forfeited recognizance, and judgment granted and motion to remit the forfeiture and vacate the judgment denied. Opinion per Curiam.

Opinion handed down by Genl Term Court Com
Pleas - Mch 7/92 -

The People v

vs

Lester Carmie

~~~~~

Men of Good Form  
granting motions

COURT OF GENERAL SESSIONS OF THE PEACE,  
CITY & COUNTY OF NEW YORK.

Clerk's Office,

June 16th, 1890.

.....x  
THE PEOPLE :  
vs. : On indictment for Burglary,  
third degree.  
LUTHER LASHER.: (Filed Oct 18,1888.)  
.....x

I certify that it appears from the Records of said Court, that the recognizance of the defendant was forfeited on the 15th day of Febry 1889, afterwards the defendant was arrested on a bench warrant April 20, 1890, and committed to the City Prison and May 21, 1890 the defendant pleaded guilty to the crime of Petit Larceny and was sentenced to the City Prison for the term of five days.

(Sgd.) J. Sparks,  
Clk.

(SEAL.)

Court of General Sessions of the Peace  
City and County of New York

-----X  
The People of the State of New York

Against

Luther Lasher, et al. impleaded  
-----X

Statement.

This is an application on petition by one John A. Carnie heretofore bondsman for the defendant Lasher upon this indictment, for a remission of the forfeiture of the said Lasher's bail, which was duly ordered upon the 15th day of February, 1889, for petitioner's breach of the condition of the bond.

Defendant Lasher was, on October 18th 1888, indicted jointly with one Gustavus Yauch and one Rolland C. Jaffrey, for a larceny, burglary and receiving of stolen property, alleged to have been committed by them on October 8. The defendant Yauch was taken into custody promptly after the commission of the said crime, but both Lasher and Jaffrey had fled, and could not be found. Jaffrey has never been arrested, and Lasher was not discovered and arrested until Jan. 10th 1889. Upon that day he was committed to the City Prison, bail being fixed at one thousand dollars. On the 15th day of January 1889, he was admitted to bail in that sum, the said Carnie becoming surety for his appearance on the indictment. Notice was thereafter duly served upon said bondsman to produce said Lasher in this Court on the 15th day of February

1889, in accordance with the engagement of his Bond, which he failed to do, whereupon, on said last mentioned day, the Court directed a forfeiture of the said recognizance, and the entry of judgment thereon against said Carnie. On the 16th day of March 1889, judgment was accordingly entered against Carnie for the amount of his bond, and on the 3rd day of April 1889, it was satisfied by Carnie, in full, to the Sheriff, and a few days thereafter the amount was turned over by him to the City Chamberlain, being thence covered into the city treasury. Thereafter on the 11st day of May 1890, more than a year after the said forfeiture, the defendant came into court, and pleaded guilty to petit larceny, which plea was, on the recommendation of the District Attorney, accepted by the Court, and he was thereupon sentenced to five days imprisonment in the City Prison. Subsequent thereto and on the 8th day of June, 1890, the petition on this application, and in the following month-- July--presented to the Court.

-----X  
The People

vs.

Luther Lasher et al.  
impleaded

Sept. 15, 1890

-----X  
Opinion.

The petition in this case appears correctly to re-  
cite the facts of the case. Admits service on the bonds-  
man, the petitioner, of notice for the production of de-  
fendant; declares that the bondsman was unable to pro-  
duce defendant as required and states that bondsman  
"exerted all due diligence and effort to comply" with  
the requirements of said notice, and states "that failure  
to produce defendant was not wilful on part of the pe-  
titioner and "was not by reason of the failure of the  
petitioner to exercise all due diligence and effort" to  
comply with same, and alleges that the People's rights  
and the defendant were not prejudiced by petitioner's  
failure to produce him; that all legal charges have  
been paid and asks for an order vacating and discharging  
the judgment and directing the Chamberlain to pay back  
to petitioner the amount of the judgment less legal  
charges. Accompanying petition is the District At-  
torney's certificate that the People have lost no rights  
by reason of defendant's failure to appear pursuant to  
said recognizance and consenting to the entry of the  
order asked for.

The papers presented on this motion appear to be in  
proper form and in accordance with the practice., and I



(2)

have no doubt of the power of the Court to grant the order asked for.

The Court is not bound by the Certificate of the District Attorney, but may look to the facts and circumstances of each particular case to see if the application is a meritorious one and whether in justness, fairness and equity the relief sought should be granted.

In this case the terms and conditions of the bond were clear; the bondsman had notice to produce the defendant, although the People were not legally required to give notice, but failed to do so. His only excuse here offered for failure to produce defendant is "that he exerted all due diligence to produce defendant" he does not show what his efforts were, or that he made any effort whatever, contenting himself with above statement, undertaking for himself to determine what "due diligence" is, but even if every effort were exerted on the part of the petitioner and the most strenuous effort made to produce defendant it would not furnish ground sufficient for granting this application.

After the lapse of over a year, the defendant comes into Court and pleads guilty, and is sentenced by the Court; this application is made shortly thereafter for vacation of the judgment and repayment to the surety of the money he was forced to pay on account of his failure to comply with his agreement.

It may be that defendant elected a more convenient time to him to be tried than that appointed by the

(3)

People. Or that he intentionally remained away until it suited his convenience to appear. Or that he deliberately and designedly left the jurisdiction with the intention to avoid and evade the process of the Court.

If a defendant wilfully disobeys the mandate of the Court, or being called for trial defies the Court and does not appear, or leaves the jurisdiction with intent to hinder, delay, avoid, or evade the action of the Court- surely no case is presented that should relieve the surety.

Where a failure to produce the defendant is the result of excusable mistake, where a forfeiture would work great hardship, and there is no commensurate fault on the part of the surety, the court may refrain from forfeiture or remit forfeiture if application be promptly made and the facts be clearly shown.

The contract was entered into by petitioner with full knowledge of its consequences and possibilities. He undertook the custody of the defendant; he failed to comply with the terms of his bond. Much time elapsed before defendant was produced and the petitioner cannot justly complain if, under the circumstances, here presented he be held to the terms of his contract.

Any other holding would be unjust to the People, and would be sanctioning by the Court a course of practice never intended, and would leave a defendant on bail at liberty to answer or not a summons to appear for trial as he saw fit. Or if he were so minded to flee the jurisdiction and return at his pleasure, well knowing

0456

that he could appear at any time it might suit his convenience or whim, and that upon application a court would relieve his surety.

This application appears to be without merit on the part of the petitioner and in justice and equity should not be granted.

Motion denied.

R.B.M.  
J.

Court of General Sessions

The People  
vs.

Arthur Lasher  
imprisoned,

Copy.

Penion of  
Judge Martine.

For the City and County of New York.

The People of the State of  
New York,

against

Luther Lasher  
Principal :

and Joseph A. Carnie :  
Surety.

On the annexed affidavit of Ambrose H. Purdy, and on the order to show cause herein, and on all the proceedings, affidavits and orders herein, let the District Attorney of the County of New York show cause before me at

on \_\_\_\_\_ day of \_\_\_\_\_  
at \_\_\_\_\_ o'clock a. m. or as soon thereafter as counsel  
can be heard, why the order granted by me on the 10th day of  
April 1891, should not be set aside and vacated and why the  
defendants herein should not have such other and further ~~and~~  
relief as to the Court ~~may~~ herein should seem just.

C O U R T   O F   C O M M O N   P L E A S  
For the City and County of New York.

----- x  
: The People of the State :  
: of New York :  
: against :  
: Luther Lasher :  
: Principal: :  
: and John A. Carnie, :  
: Surety. :  
: ----- x

City and County of New York, ss:-

Ambrose H. Purdy being duly sworn, says:  
That he is the attorney for the above named defendants.  
I. That on the 15th day of January 1889, the said  
Lasher was admitted to bail in the sum of \$1,000.- in the  
Court of General Sessions, on an indictment charging him with  
burglary in the third degree, and grand larceny in the first.  
That the said Carnie was the surety on said bail bond.  
That thereafterwards, the said Lasher left the City of  
New York, and forfeited his said bail bond; and thereupon  
judgment was had against said Carnie on said bail bond, for  
the sum of \$1,000.- which said judgment was paid by the said  
Carnie, to the Sheriff of the County of New York.  
That thereafter on the 21st day of May 1890, said Lasher  
returned to the City of New York, and went before the Court  
of General Sessions, Hon. Rufus B. Cowing presiding, and ten-  
dered a plea of guilty of petty larceny. After a full exam-  
ination of the case by the Assistant District Attorney, and



by the said Judge, the said plea of petty larceny was accepted and said Lasher was thereupon sentenced.

II. And thereafterwards, and on the second day of July 1890, the defendant Carnie applied for the remission of the forfeiture of said bail bond as aforesaid.

Deponent, as attorney for said Carnie, prepared the papers and submitted them to the Hon. John R. Fellows, then District Attorney, who, after examining the same, and investigating all the facts, certified, as is provided by the Statute, that the People had lost no rights, and consented that the said judgment heretofore entered on said forfeiture be set aside; and thereupon the papers were handed to the Hon. Randolph B. Martine for his approval.

No argument was had at any time before Judge Martine, but he referred these papers to Mr. Andrew D. Parker, then an Assistant District Attorney.

Mr. Parker retained these papers in his possession for a period of nearly three months; and then reported to Judge Martine adversely to the application of said Carnie, and thereupon said Martine wrote the opinion which appears in these papers.

*Deponent.*

And thereupon not believing that said Martine's reasons for denying said application were sound in law or in justice, prepared papers praying the relief from the General Term of this Court.

After the preparation of such papers, deponent submitted them to Mr. W. H. Hartmann, the Deputy Assistant District Attorney under Mr. Fellows, who had exclusive charge of the

applications for remission of forfeitures of bail bonds, and who had had charge of the original application to Judge Martine.

And again; Mr. Fellows certified that the People had lost no rights; that all the costs had been paid, and he consented that the judgment should be set aside and the application of the petitioner should be granted.

The papers were then in the usual manner as is the practice of the Court of Common Pleas, handed to the Clerk of that Court; and the General Term having examined the papers and proceedings on the                      day of                      handed down the ~~following~~ memorandum. *4 "A"*

Thereupon the said District Attorney John R. Fellows, in compliance with the memorandum of this Court, made another certificate in conformity to the suggestion of this Court, and thereupon the General Term of this Court granted the relief, and the order was made setting aside the judgment and directing the proper officer to return the money to the defendant Carnie.

In the application before the Common Pleas, deponent did not state that Judge Martine had decided ~~xxx~~ adversely to this application, neither did deponent quote Judge Martine's opinion. The reason was, that the General Term of the Common Pleas has a discretionary power in these matters, and is not controlled by the judgment or opinion of any other court.

Deponent did not quote Judge Martine's opinion in the case, because deponent believes that Judge Martine's opinion is not sound in law, and is a departure from the well settled

opinions of this Court for many years. But deponent did not conceal in any way from this Court, any facts. It is not the habit of this Court to hear argument upon these applications; and the applications are invariably granted where the applicant shows himself within the rules and the Statute, and is armed by the certificate and consent of the District Attorney.

The District Attorney did not see fit to call the Court's attention to Judge Martine's opinion; for what reason, I do not know. It may be that he had as little confidence in Judge Martine's opinion as deponent had.

In the affidavit on which this order was granted, Mr. Welsch says that he had a conversation with Mr. Fellows, in which Mr. Fellows stated to him that at the time that he, Fellows, gave the certificate in this case, that he was not aware that Judge Martine previously had denied the application. If this fact is to have any significance, it should appear in the form of an affidavit by Mr. Fellows.

Deponent cannot believe that Mr. Fellows was not fully aware of every step taken in this matter. Deponent did not have any personal conversation with Mr. Fellows with regard to the matter, but he did have many conversations with Mr. Hartmann, Mr. Fellows' Assistant, with regard to it, and he, Mr. Hartmann, well knew of Judge Martine's decision; and both Mr. Hartmann and myself discussed Judge Martine's decision very freely; and while I am not willing to assert positively that I also discussed the matter with Mr. Fellows, still it is my best memory that I did so.

The serious question was by what right Mr. A. D. Parker, an Assistant, should undertake to pass any judgment upon the acts of his chief; or why Judge Martine by referring this case to Mr. Parker as before stated, should venture to ask him to do so.

No deceit or fraud has been attempted or practiced vpon this Court. This application is as honest and meritorious a one as was ever presented to this Court; and the attempt to set aside the order of this Court in remitting this forfeiture is not in deponent's opinion made in the interest of the City of New York or in the interest of justice, but is an attempt, in deponent's judgment, to in some way punish deponent, for the very active part he took in endeavoring to prevent the re-appointment of said Parker as Assistant District Attorney.

An order to show cause is desired, because if the order is to be heard at the General Term of this Court, the voluminous papers will have to be printed, and a needless expense incurred.

Sworn to before me this )  
28<sup>th</sup> day of April 1891. )

*A. H. Purdy*

*J. J. Bischoff*  
Notary Public  
New York County.

POOR QUALITY  
ORIGINAL

0464

ANDROSE H. PURDY.

P. A. McMANUS.

PURDY & McMANUS,  
COUNSELORS AT LAW,  
280 BROADWAY,  
Room 85, STEWART BUILDING.

NEW YORK, April 27th 1891.

My Dear Sir:-

The case I spoke to you this A. M. was that of Charles Warner.

Warner was arrested charged with keeping a gambling house. He was held in \$500- bail; when indicted, he forfeited his bail. Subsequently he appeared and the District Attorney dismissed the indictment.

I made an application for the remission of this forfeiture at the same time as Lasher's. The cases were exactly similar; both were referred by Judge Martine to Parker; this was granted, and Lasher's refused again.

Daniel W. Buck was indicted for crime against nature. Buck forfeited his bail, \$2,500- and ran away to Canada.

I induced him to return. He did so. We went before Martine, pleaded guilty to assault in the third degree, and was sentenced to six months. I applied to Judge Martine and he remitted the forfeiture, and we recovered the money.

The case of Lasher is the only case on record when after a District Attorney's certificate, any judge in court has refused to remit the forfeiture; and ~~this~~ refusal was, in my judgment, occasioned by considerations entirely outside of the merits.

Very truly yours,

*Androse H. Purdy*

0465

+ Insert the title as informed  
you taken from the  
papers left with Mrs. D.W.

At a Special Term  
of the Court of  
Common Pleas  
of the City and County  
of New York, held at  
Chambers, ~~the~~ <sup>the</sup> Court House  
in said city on  
the day of April 1891

Prima

Am.

(Little balance here) -X

Judge

Upon reading the affidavit of Mr. David Welch, verified the 10<sup>th</sup> day of April 1891, and the opinion of Hon. Randolph B. Martine one of the Judges of the Court of General Sessions of the Peace of the City and County of New York, <sup>filed</sup> the 16<sup>th</sup> day of September 1890, both of which are annexed hereto, and upon all the papers and proceeding heretofore filed or had herein which in any way relate or refer to this proceeding either in the Court of Common Pleas of the City and County of New York or in the Court of General Sessions of the <sup>Peace of the City and</sup> County of New York.

Let the defendants John A. Carnie and Luther Lasher or their attorneys Mess. Purdy & McLoughlin show cause before me, or other Judge of this Court, at a Special Term, Chambers, thereof, to be held at the County Court House in the City of New York, the 13<sup>th</sup> day of April 1891, at 10-30 o'clock A.M. or as soon thereafter as counsel can be heard, why the order of this Court heretofore entered hereinaof date the day of 1890, directing the City Chamberlain or other officer in charge of the finances of the City of New York, to repay to the said John A. Carnie the amount of the judgment heretofore entered against him in behalf of the People of the State of New York, of date the 16<sup>th</sup> day of March 1889, upon a forfeited recognizance, and further directing the Clerk of the City and County of New York, to vacate and dis -

Clear year blank.



charge the judgment heretofore entered herein against  
*said* ~~the parties aforesaid and entered the said 16th day of~~ *on the date last aforesaid*  
~~March 1889.~~ *should not be vacated or set aside*  
*judgment should not be reheard, and*  
And pending the argument to be had on the order to

show cause herein let the defendant John A. Carnie and his  
attorneys Mess. Purdy & McLoughlin, or any other agent or  
representative be and they are hereby individually and  
severally enjoined and restrained from demanding or  
receiving or in any manner intermeddling with the money  
now in the possession of either the Comptroller of the  
City and County of New York or the City Chamberlain ~~paid~~  
*in whose possession said funds now remain*  
~~to either officer upon the forfeiture aforesaid.~~

Service of a copy of the order to show cause herein  
with accompanying papers if made upon Mess. Purdy and Mc-  
Laughlin attorneys herein on or before the *11<sup>th</sup>* day of  
April 1891, shall be deemed sufficient.

*continued in full bond and effect.*

NEW YORK COURT OF COMMON PLEAS  
For the City and County of New York.  
-----X

*Little*  
*as stated by Deane*  
-----X

City and County of New York, SS:

David Welch being duly sworn deposes and says; that he is an assistant to Hon. DeLancey Nicoll, District Attorney of the County of New York, and that an examination of the facts *in relation to the above entitled proceeding* discloses the following information:

That heretofore, and on or about the 10th day of January 1889, the above named Luther Lasher was committed to the City Prison to await trial upon indictment for burglary in the third degree and grand larceny in the *first* ~~third~~ degree and receiving stolen goods.

That thereafter and on the 15th day of January 1889, the said Luther Lasher was admitted to bail in the sum of one thousand dollars by Hon. Henry A. Gildersleeve at that time one of the Judges of the Court of General Sessions of the Peace of the City and County of New York, and upon said day the above named John A. Carnie executed a bail-bond in said amount and duly qualified as surety for said Lasher, and said bail-bond was duly accepted and said Lasher was discharged pending his trial.

That on or about the 14th of February 1889, the said John A. Carnie was notified to produce said Lasher in the Court of General Sessions on the 15th day of February *the day set apart for the trial* 1889, which the said John A. Carnie *failed* ~~was unable to do, and~~

(2)

~~said Luther Lasher was not produced in Court upon the day  
arranged for his trial.~~

That owing to the failure of said John A. Carnie to  
produce the said Luther Lasher at the time aforesaid, the  
bail-bond given herein <sup>by the said Mr. J. Roberts</sup> was ordered to be and the same  
was duly declared forfeited, and thereafter, judgment for  
the amount thereof was entered against the said John A.  
Carnie on the 16th of March 1889.

That on or about the 3rd day of April 1889, the said  
John A. Carnie paid the amount of said judgment to the  
Sheriff of this county, who thereafter, paid the same over  
to Hon. John R. Fellows then District Attorney of the  
county, who in turn paid the same over to the City Cham-  
berlain on or about the 8th day of April 1889.

That on or about the 21st day of May 1890, the said  
Luther Lasher was produced before the Hon. Rufus B. Cowing  
in Part Two of the Court of General Sessions, and upon the  
recommendation of one of the Assistant District Attorneys  
the said Luther Lasher pleaded <sup>guilty</sup> to petty larceny under  
said indictment and was sentenced upon said plea to the  
City Prison for the term of five days.

That thereafter, and on or about the <sup>2nd</sup> ~~20th~~ day of July  
1890, a notice of motion with accompanying affidavits was  
served upon the then acting-District Attorney, John R.  
Fellows by Mess. Purdy & McLoughlin, attorneys for John A.  
Carnie the surety herein, which said notice of motion was  
made returnable in Part One of the Court of General Ses-  
sions on the <sup>or about</sup> ~~2~~ day of <sup>July</sup> 1890, which application  
was for an order praying that the said John A. Carnie have

(3)

the judgment theretofore entered against him discharged of record, and for a further order of the Court directing the City Chamberlain to pay to said John A. Carnie, the amount named in said forfeited recognizance less such charges thereon as were legal and just.

That argument upon said application was heard before Hon. Randolph B. Martine one of the Judges of the Court of General Sessions, and the papers founded upon said application were filed with him with the accompanying affidavits.

That thereafter, to wit: on or about September 16th 1890, said Hon. Randolph B. Martine rendered a decision upon said application and handed down an opinion in relation to the same, wherein, amongst other things, it was recited that the application for the refunding of said sum of money heretofore mentioned <sup>and the same was</sup> be denied. That a copy of said opinion with a statement annexed thereto is hereto attached and for the purposes hereof made part of the moving papers herein.

That subsequently thereto, to wit: on or about the 29th day of September 1890, a similar notice of motion with accompanying affidavits as that hereinbefore alluded to was served upon Hon. John R. Fellows, District Attorney of the County of New York, praying precisely for the same relief <sup>to the Court of General Sessions</sup> as that asked for in the previous application made before Hon. Randolph B. Martine.

That said latter application was made to the Court of Common Pleas at a General Term thereof and was made returnable on the 1st Monday of October 1890.

(4)

That it appears from the moving papers in said application that no notice was given to the Court of the previous application <sup>of Common Pleas</sup> <sup>whereby</sup> for the same relief as then asked <sup>and that the same was</sup> for ~~having been~~ denied by Hon. Randolph B. Martine of the Court of General Sessions, and that said denial of said application and the opinion handed down in relation to the same were not made mention of to the said Judges of the Court of Common Pleas at the time of the application aforesaid. That no opposition was made to said last named application by any ~~officer of the office~~ <sup>representative</sup> of the District Attorney of the County of New York, and that upon the motion aforesaid, merely the said John A. Carnie was represented by counsel and that no brief or memorandum was handed up in opposition to said motion by any one interested in behalf of the office of the District Attorney. <sup>or the People of the State</sup> <sup>neglect and refusal</sup> Upon information and belief, that owing to the failure of the counsel for the said John A. Carnie of mentioning the fact that the previous application herein had been denied and upon the failure of the District Attorney to be represented upon said motion, the said Court of Common Pleas <sup>in the best of faith but ignorant of the true</sup> granted the application founded upon said notice of motion, giving the said John A. Carnie the relief prayed for in the moving papers then before the Court. dict

That upon all the facts and circumstances relating to the above case <sup>as herein recited</sup> ~~Hon. Delancey Nicoll, District Attorney~~ believes that said Court of Common Pleas was imposed upon and the interests of the People of the State was unjustly taken advantage of, ~~by reason of the facts hereinbefore~~.

*The defendant*  
*justice was however*



(5.)

~~recited, and that in the interests of justice and for the preservation of the rights of the People, the said Court of Common Pleas is respectfully urged to revoke, cancel and set aside the order entered herein on the day of 1890, wherein the relief prayed for by said John A. Carnie under the circumstances herein fully set forth was granted, owing to the fact that the same was granted upon a concealment of the true facts of the case and that the Court was imposed upon and that the interests of justice was subverted.~~

That attached to the moving papers before the Court of Common Pleas was a certificate of Hon. John R. Fellows then District Attorney, dated July 2, 1890, wherein consent was given that the judgment entered herein on the 16th of March 1889, on said forfeiture, be vacated and set aside without further notice, and consent was additionally given for the City Chamberlain to pay to said John A. Carnie the sum paid by said petitioner in satisfaction of said judgment entered up against him. That from a conversation had with said John R. Fellows the 8th day of April 1891, this deponent was informed by said John R. Fellows that the time said certificate was given he was unacquainted with the circumstances hereinbefore recited of the denial of the application of said John A. Carnie by Hon. Randolph B. Martine, and that if he had known of the application having been denied as aforesaid he would have refused to have given his certificate of date July 2, 1890.

WHEREFORE your affiant prays for an order revoking the former order entered herein, and for such other and



(6)

further relief as may be just in the interests of the  
People of the State ~~herein~~.

That an order to show cause is necessary ~~herein~~, re-  
turnable in less than eight days owing to the fact that  
no stay has been granted herein by any of the Judges of  
the Court of Common Pleas forbidding the payment over to  
said John A. Carnie of the amount named in said forfeited  
recognizance, and that the same is liable to be paid to  
said Carnie at any day. *or time you and defendant  
prior the same will be paid over.*  
That no previous application for a similar order has

been asked for herein.

Sworn to before me this

day of April, 1891.

Court of General Sessions.

The People

vs.

Guillermo Yanch  
Rollard C. Jaffrey  
and Luther Lasher

Statement of the Situation.

to be testified to by all the witnesses.

Time: 8th of October, 1888,  
at about seven o'clock  
in the evening.

Locality: Transfer Boat No. 5 and  
Barge No. 28 in tow, be-  
longing to the New York,  
New Haven and Hartford  
Railroad Company.  
East River, opposite 17th  
and 18th Street.

The transfer boat is <sup>steam</sup> ~~an~~ trying to  
tug the float.

The said float has three  
tracks for railroad cars.  
There were at said time  
16 cars on the float, six  
on each of the two outside  
tracks and four on the

0474

inside track. There is a passage way on the outside of the outside track. The space between the middle and outside track is very narrow and seldom used. The float has a light on the stern and one on the bow, and the floatman on the float had also a lantern.

Paid 16 cars were all freight cars, eight of them were loaded and eight were empty.

The tug was on the bow or left side, <sup>close by</sup> fastened to the float.

J. H. Kellam was the Captain of the Tug.

H. P. Cleary was first deck hand on the Tug.

Frank C. Cole, was Cook on the Tug.

Arthur Lasher, 2<sup>d</sup> Engineer in charge of the engine  
Rollard C. Jaffrey, Float

Witnesses for the  
prosecution

Witness for the  
defense

Defendants

man, in charge of the float.

Gustavus Yarch, 2<sup>d</sup> deck  
handed on the tug

J. A. Kellam, 735 East 134<sup>th</sup> Street,  
Captain of said tug. I was in the  
Pilot House which is high enough  
to enable me to look over all the  
cars. I saw on the side of a car  
on the middle track the reflec-  
tion of a <sup>square</sup> light, which looked as  
if it was thrown out from the  
door of a car. It occurred to me  
that something was wrong, and  
I sent deckhand Clary out to in-  
vestigate the matter. About three  
minutes afterwards he came back  
and said that something was  
wrong. I made the remark, that  
I thought floatman Jefferys was  
going through the cars, and Clary  
replied, that Jefferys was in the car.  
Thereupon I went over to the float,  
passed between two cars to the  
middle track and started toward  
the door where the light was in.

When near said door I saw a person come out of said door. I walked back and climbed upon <sup>car</sup> platform. While standing there, the defendant Yarch passed by and his soft felt hat touched my toes. He looked up and saw me, turned back and went to the car door, where he said something to the defendants Lasher and Jaffrey who came out of the door of said car. I walked up to them and identified them as the defendants here. I stood near enough to them and there was light enough, I think from the headlight of the tug, to recognize them. Jaffrey had <sup>a</sup> lantern in his hand, when he got out of the car. I asked them, what kind of business that was. They did not give any answer; they seemed to be unable to say anything. Jaffrey turned over to a flat car on the middle track and deposited there what he had in one of his hands, when he came out of said car. I took possession



of the things and brought them over to my room back of the Pilot House. They consisted in two or three books, one pair of shoes, and a pair of slippers. After having locked my room I returned to the float, and about a car length away from the said door, in the direction that Jarch went when he first passed me. I found on the deck of the float two or three books, two or three pairs of shoes and several slippers. I brought them also to my said room, and then went into the cabin on the stern of the tug. There I found the three defendants together. I said to them, that I was surprised that they took pay from the company and then steal from them. Lasher asked me, what I meant. I replied: You know what I mean. Thereupon I returned to the Pilot House. Shortly after the three defendants came to me in the Pilot House. Lasher said that it was no use to deny the robbery. "You caught us dead to rights. It



means ten years, if you report us. There is only one ~~thing~~ way for us to get out of it; to throw the things overboard and fire the car up." I replied that I did not do business that way; if I did, I would be guilty equally with them. Parker asked me then: "Do you mean to report?" I replied, "What else can you expect". He thereupon said, that he did not blame me, because I was the man responsible; he blamed nobody but himself for being a fool. This conversation took place in the hearing of the other two defendants and of the deckhand Cleary.

Jafferys then commenced to cry, fell down on the floor and wept. He said that his mother was dying, his father was blind, and that he had just got married. I replied: You are a fine cucker anyhow; I do not take any stock in you. This has not been your initiation.

Yanck said, that his father

was subject to apoplexy, and if he was arrested, the shock might kill the old man. If I would let him off, he would go to sea. I replied that I would turn the things over to Superintendent Crosby, and that I would not shield my own brother. Thereupon he said that I would open the door of my room, he would throw the things over board, and I did need to know what became of them. When the tug and float had laid fast to the dock in Jersey City, Jaffrey came to me in the kitchen, and repeated his above request. I declined to entertain it. He then requested me to deliver a message to his parents, and he would go to sea. He had his hat and coat on. I then tried to make him believe that things would be smoothed over, so as to induce him to stay on the boat. He went back to Harlem, ~~where~~ where I turned him over to the Police officer.

Lasher and Jaffrey went off

the boat at Jersey City. Lasher was arrested about three months thereafter, I am informed that he has gone to sea since.

I examined the car in which I had found the defendants, and I ascertained that the seal had not been broken, but that the staple, ~~over which the door is fastened~~ ~~was~~ which held the door closed in position, had been drawn out, and by that means the door of the car was opened without breaking the seal.

The conversation in the kitchen took place in the presence of Frank P. Cole, the cook, who will likely swear that I said, I could not swear that I saw him with the goods in his hands. I said this to induce him to stay on the boat.

H. P. Carey, 201 Third Street, Jersey City. When on the float, to investigate the cause of the light, as directed by Capt. Keller, I saw Jaffrey's car out of said

car whose door was wide open. He stood at the car and looked around, as if he were on the watch. Then he went forward in the direction of the barn and disappeared. About a minute later he returned and got back into the car. While he was gone, I heard the noise of the breaking open of boxes etc. in the car. Then I went back and reported to Capt. Kellam. I overheard the conversation of the Capt. and the three defendants at the Pilot House, as it is stated in the Captain's deposition. I heard Lasher also say at the time that he would go over and fix the car, so that it would not be noticed at Jersey City. Yarch volunteered to go with him and hold the lantern. Yarch and Lasher then departed towards the float. Yarch repeated his request to Capt. Kellam not to report him at least two times. I heard Yarch say to the cook that he would have to fix up some kind of a story and griped her saying that he was going to the float to get his pipe. and to explain his presence on board the float.



Wm. W. Rogers, Detective Sergeant,  
Central Office. I arrested the de-  
fendant Lasher on the 16th of  
January, 1889. He remarked that  
this is the cause of all this; I  
can't get work on any of these  
waters; that he was a damned  
fool to do it.

John J. Kennedy, 535 E. 135th St.  
Yard Clerk in the New Haven  
Freight Yard. I examined the  
car that was broken open by  
the defendants, when arrived  
at the yard from the East,  
and found both sides pro-  
perly sealed and in good order.

Frederick Wagner, 2627 Third  
Avenue, Bridge Clerk, at New  
Haven Freight Yard. I saw  
the car 7292 B & B., sealed 22  
New England on both sides,  
transferred to the float No. 23  
at 4.15 P. M., 8 October, 1888

Valentine Burgh, 763 West Newark Avenue, Jersey City Heights, Bridge Clerk of the Pennsylvania R. Road at Harrison's Cove. At about eight o'clock in the evening of the 8th of October, 1888, I received Freight Car marked ~~R & A~~ R. P. 7292, from the float commanded by Capt. Kellam. I examined the same and found ~~the~~<sup>it</sup> staple loose, so that I could easily pull it out with the hands. Finding that the car had been tampered with, I went inside and found a number of shoes lying on the floor, and 3 slipper boxes, 2 bookcases and 1 shoe box opened and turned upside down.

William Walsh, ~~217~~ 270 North Street, Jersey City. Checker in the employ of the Pennsylvania Railroad Co., stationed at Harrison's Cove. On the 9th of October, 1888, I examined Freight Car R. P. 7292 and found the following packages broken:

|                |                     |         |
|----------------|---------------------|---------|
| H. Rosenfield, | Grand Rapids, Mich. | 3 cases |
| J. V. H.       |                     |         |
| H. C. & Co.    | Greenburgh, Inds    | 1 "     |



|                        |                      |        |
|------------------------|----------------------|--------|
| The Mercantile Co.     | Traverse City, Mich. | 1 case |
| L. Anderson & Co.      | Lawsonville, Ky.     | 1 "    |
| Morris & Hunt          | Richmond, Ind.       | 1 "    |
| Commerceville Fire Co. | Commerceville        | 1 "    |
| J. Harrington          | Richmond             | 1 bale |

Joseph L. Davis, patrolman, 31st Precinct. On the 9th of October, 1888, at 3.30 A. M., I at the request of Capt. Kellam I arrested the defendant <sup>Quincy</sup> Yarrch in the office of the New Haven Freight Depot. The defendant denied having had anything to do with the stealing.

William J. Crowley, 690 E. 135th Superintendent of the Freight Yard of the New York, New Haven & Hartford Railroad Co., From information received from Richard B. Pisdorn, with A. L. Barnes, at cor. Jones and Williams St., I estimate the value of the stolen books at \$21.50. The lowest price of the clippers and boxes is \$12.

0485

COURT OF GENERAL SESSIONS.

THE PEOPLE, &c.

*vs.*  
*Gustavus Garch*  
*Holland P. Jeffery*  
*and Luther Dasher*

BRIEF OF FACTS.

For the District Attorney.

Dated *January 2* 188*9*  
*Edmund H. Moore*

Deputy Assistant.

0486

The People

VS  
Luther Larker et al  
impleaded

Sept 15, 1890

Opinion - The petition in this case appears correctly to recite the facts of the case. Admits service on the bondsman, the petitioner of notice for production of the deft. declares that the bondsman was unable to produce deft. as required and states that bondsman exerted all due diligence and effort to comply with the requirements of said notice and states that failure to produce deft. was not wilful on part of petitioner and was not by reason of the failure of petitioner to exercise all due diligence and effort to comply with same. and alleges that the Peoples rights agst the deft. were not prejudiced by petitioners failure to produce him - that all legal

2

charges have been paid and asks for an order vacating and discharging the Judgt. and directing the Chamberlain to pay back to petitioner the amt. of the Judgt. less legal charges. Accompanying petition is the Dist. Atty's. Cert. that the People have lost no rights by reason of defts failure to appear pursuant to said recognizance and consenting to the entry of the order asked for.

The papers presented on this motion appear to be in proper form and in accordance with the practice - and I have no doubt of the power of the Court to grant the order asked for.

The Court is not bound by the Certificate of the Dist. Atty., but may look to the facts and circumstances of each particular case to see if the application is a meritorious one and whether in justice fairness and equity the relief sought should be granted.

In this case the terms and conditions of the Bond were clear - the Bondsman had notice to pro-



3

although the People were not legally required to give  
duce the debt. But failed to do so.<sup>under</sup>  
His only excuse here offered for  
failure to produce the debt. is  
"that he exerted all due dil-  
igence to produce debt" he does  
not show what his efforts were. or  
that he made any effort whatever  
contenting himself with above state-  
ment. undertaking for himself to  
determine what "due diligence" is.  
but even if every effort were exerted  
on the part of the petitioner and  
the most strenuous effort made  
to produce debt it would not  
~~necessarily~~ furnish ground  
sufficient for granting this ap-  
plication.

After the lapse of over a year  
the debt. comes into Court and  
pleads guilty - and is sentenced  
by the Court - this application  
is made shortly thereafter for  
vacation of the judgment and  
repayment to the surety of the  
money he was forced to pay  
on account of his failure  
to comply with his Agreement.  
It may be that defendant  
elected a more convenient

4

time, to him to be tried than that appointed by the People - or that he intentionally remained away until it suited his convenience to appear, or that he deliberately and designedly left the Jurisdiction with the intention to avoid and evade the process of the Court.

If a deft. wilfully disobeys the mandate of the Court - or being called for trial defies the Court and does not appear - or leaves the jurisdiction with intent to hinder delay avoid or evade the action of the Court - surely no case is presented that should relieve the surety.

Where a failure to produce the deft is the result of excusable mistake - where a forfeiture would work great hardship - and there is no commensurate fault on the part of the surety - the Court may refrain from forfeiture or remit forfeiture,



5-

if application be promptly made  
and the facts be clearly shown.

The contract was entered  
into by petitioner with full  
knowledge of its consequences  
and possibilities. He under-  
took the custody of the deft,  
he failed to comply with the  
terms of his bond - much time  
elapsed before deft was pro-  
duced and the petitioner  
cannot justly complain if  
under the circumstances here  
presented he be held to the  
terms of his contract.

Any other holding would be  
unjust to the People and  
would be giving sanction by  
the Court a course of practice  
never intended. It would  
leave a deft <sup>on bail</sup> at liberty to answer  
or not a summons to appear  
for trial as he saw fit - or  
if he were so minded to flee  
the jurisdiction and return  
at his pleasure. well knowing  
that he could appear at any  
time it might suit his con-  
venience or whim - and that

6

upon application a court would  
relieve his surety.

This application appears  
to be without merit in the  
part of the petitioner and in  
justice and equity should not  
be granted.

Motion denied - R.B. May

0492

The People &c

vs

Luther Sarker  
imprisoned

Opinion

3-76

filed Sep 16 1890

3

Court of General Sessions of the Peace,

City and County of New York.

-----X  
The People of the State of New York

against

Luther Lasher, et.al, impleaded.  
-----X

*Statement*

This is an application on petition by one John A. Carnie heretofore bondsman for the Defendant Lasher upon this indictment, for a remission of the forfeiture of the said Lasher's bail, which was duly ordered upon the 15th. day of February, 1889, for petitioner's breach of the condition of the bond.

Defendant Lasher was, on October 18th, 1888, indicted jointly with one Gustavus Yauch and one Rolland C. Jaffrey, for a larceny, burglary and receiving of stolen property, alleged to have been committed by them on October 8. The defendant Yauch, was taken into custody promptly after the commission of the said crime, but both Lasher and Jaffrey had fled, and could not be found. Jaffrey has never been arrested, and Lasher was not discovered and arrested until Jan. 10th, 1889. Upon that day he was committed to the City Prison, bail being fixed at one thousand dollars. On the 15th day of January, 1889, he was admitted to bail in that sum, the said Carnie becoming surety for his appearance on the indictment. . Notice was thereafter duly served upon said bondsman to produce said Lasher in this Court on the 15th day of February, 1889, in accordance with the engagement of his Bond, which he failed to do, whereupon, on said

last mentioned day, the Court directed a forfeiture of the said recognizance, and the entry of judgment thereon against said Carnie. On the 16th day of March, 1889, judgment was accordingly entered against Carnie for the amount of his Bond, and on the third day of April, 1889, it was satisfied by Carnie, in full, to the Sheriff, and a few days thereafter the amount was turned over by him to the City Chamberlain being thence covered into the City Treasury. Thereafter, on the 21st day of May, 1890, more than a year after the said forfeiture, the defendant came into Court, and pleaded guilty to Petty Larceny, which plea was, on the recommendation of the District Attorney, accepted by the Court, and he was thereupon sentenced to five days imprisonment in the City Prison. Subsequent thereto, and on the 18th day of June, 1890, the Petition on this application was verified, and in the following month- July- presented to the Court.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Dustanus Naudin*  
*Adrian R. Goffguy and*  
*Suther Gardner*

The Grand Jury of the City and County of New York, by this indictment, accuse

*Dustanus Naudin, Adrian R. Goffguy*  
*and Suther Gardner*

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows:

The said *Dustanus Naudin, Adrian R.*

*Goffguy and Suther Gardner, all*

late of the \_\_\_\_\_ Ward of the City of New York, in the County of  
New York, aforesaid, on the *eight* day of *October*, in the year of  
our Lord one thousand eight hundred and eighty-*eight*, with force and arms, at the Ward,  
City and County aforesaid, a certain building there situate, to wit: the \_\_\_\_\_ of one

*a certain roadway of a corporation*  
*called the New York, New Haven and*  
*Hartford Railroad Company,*  
feloniously and burglariously did break into and enter, with intent to commit some crime therein,  
to wit: with intent, the goods, chattels and personal property of the said *corporation*,

in the said *roadway*, then and there being, then and there feloniously and burglariously  
to steal, take and carry away, against the form of the statute in such case made and provided, and  
against the peace of the People of the State of New York and their dignity.



Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Justamus Nyeand*  
*Richard R. Jeffery and*  
*Suther Sarker*

The Grand Jury of the City and County of New York, by this indictment, accuse

*Justamus Nyeand, Richard R. Jeffery*  
*and Suther Sarker*

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows:

The said *Justamus Nyeand, Richard R.*

*Jeffery and Suther Sarker, all*

late of the \_\_\_\_\_ Ward of the City of New York, in the County of  
New York, aforesaid, on the *eighteen* day of *October*, in the year of  
our Lord one thousand eight hundred and eighty *eight*, with force and arms, at the Ward,  
City and County aforesaid, a certain building there situate, to wit: the \_\_\_\_\_ of one

*a certain roadway car of a corporation*  
*called the New York, New Haven and*  
*Hartford Railroad Company,*  
feloniously and burglariously did break into and enter, with intent to commit some crime therein,  
to wit: with intent, the goods, chattels and personal property of the said *corporation*

in the said *roadway car*, then and there being, then and there feloniously and burglariously  
to steal, take and carry away, against the form of the statute in such case made and provided, and  
against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment further accuse the said  
*Dimitrios N. Gaudin, Roland R. Jeffery*  
*and Arthur Barker*  
of the CRIME OF ~~Grand~~ LARCENY in the first degree, committed as follows:

The said *Dimitrios N. Gaudin, Roland R. Jeffery*  
*and Arthur Barker, et al*  
late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid,  
at the Ward, City and County aforesaid, in the night time of the said day, with force and arms,  
*Two pairs of shoes of the value of*  
*three dollars each pair, two pairs of*  
*slippers of the value of two dollars*  
*and fifty cents each pair, six*  
*printed books of the value of*  
*three dollars and fifty cents each,*  
*and several other goods, chattels and*  
*personal property of a number and*  
*description to the Grand Jury aforesaid*  
*unknown, of the value of fifty*  
*dollars,*

of the goods, chattels and personal property of ~~one~~ a corporation called  
*The New York, New Haven and Hartford*  
*Railroad Company, in a certain railway*  
in the car of the said corporation.

there situate, then and there being found *from the railway* aforesaid, then and there  
feloniously did steal, take and carry away, against the form of the statute in such case made and  
provided, and against the peace of the People of the State of New York and their dignity.

THIRD COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said

Isidore Mander  
of the CRIME OF CRIMINALLY RECEIVING STOLEN PROPERTY, committed as follows:

The said Isidore Mander,

late of the Ward, City and County aforesaid, afterwards to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, with force and arms,

Two pairs of shoes of the value of five dollars each pair, two pairs of shoes of the value of two dollars each pair, and six quilted coats of the value of three dollars and fifty cents each,

of the goods, chattels and personal property of ~~one~~ a corporation called the New York, New Haven and Hartford Railroad Company, Inc. ~~by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen, taken and carried away from the said corporation,~~

unlawfully and unjustly, did feloniously receive and have; the said Isidore Mander,

then and there well knowing the said goods, chattels and personal property to have been feloniously stolen, taken and carried away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,  
District Attorney.

0499

**BOX:**

327

**FOLDER:**

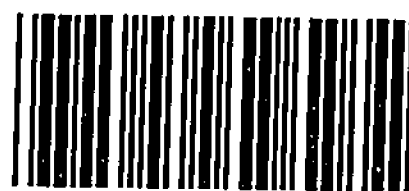
3100

**DESCRIPTION:**

Yeamans, Frank

**DATE:**

10/25/88



3100

POOR QUALITY  
ORIGINAL

0500

273  
Counsel,  
Filed 25 day of Oct 1888  
Pleads, *Chiquito*

Grand Larceny, 5th Degree.  
(From the Person.)  
[Sections 528, 580 — Penal Code.]

THE PEOPLE

vs.  
19 *Humboldt*  
10 *Humboldt*

*Frank Yeaman*

JOHN R. FELLOWS,  
District Attorney.

A True Bill.

*Small* Foreman.

Part 3. October 30. 1888

Plead Petition, Larceny

Can: me yr.

Witnesses:

*Victor Brice*

*Off. Clapham*

POOR QUALITY  
ORIGINAL

0501

Counsel,  
Filed 25 day of Oct 1888  
Pleads, *Chapman*

Grand Larceny, 5<sup>th</sup> Degree.  
(From the Person.)  
[Sections 528, 530 — Penal Code.]

THE PEOPLE

*vs*  
*19 Hamilton*  
*10 Hamilton*

*Frank Yeaman*

JOHN R. FELLOWS,

District Attorney.

A True Bill.

*Lyndell M. ... Foreman.*

Part 3. October 30. '88

Plead Petition, ...

*Rem: me yr.*

Witnesses:

*Victor ...*

*W. ...*



POOR QUALITY  
ORIGINAL

0502

Police Court— / District.

Affidavit—Larceny.

City and County } ss.:  
of New York, }

Victor Swift

of No. 4 Staple Street, aged 23 years,  
occupation Laborer being duly sworn

deposes and says, that on the 21 day of October 1888 at the City of New  
York, in the County of New York, was feloniously taken, stolen and carried away from the possession  
and person of deponent, in the night time, the following property viz:

One pair of cloth pantaloons of the  
value of one dollar and  
fifty cents

the property of Deponent

and that this deponent  
has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen,  
and carried away by Frank Terrans (now here)

and two others whose names are unknown  
that about the hour of 12.30 a M on said  
date deponent was walking along Green-  
wich Street in said City when said  
deponent, who was in company with said others, came up to him and snatched  
said property from under his arm and  
ran away. That deponent pursued  
him and caught him on the corner of  
Harrison & Hudson Streets and held  
him until Officer Frank Bahr  
came along who took him in custody

Victor Swift

Sworn to before me, this 21 day of October 1888

Sam'l C. H. Justice, Police Justice.

POOR QUALITY  
ORIGINAL

0503

Sec. 198-200.

District Police Court.

CITY AND COUNTY  
OF NEW YORK, ss

*Frank Yeamans*

being duly examined before the undersigned, being to law, on the annexed charge: and being informed that it is his right to make statement in relation to the charge against him; that the statement is designed to enable him if he see fit to answer the charge and explain the facts alleged against him that he is at liberty to waive making a statement, and that his waiver cannot be used against him on the trial.

Question What is your name?

Answer *Frank Yeamans*

Question. How old are you?

Answer *19 years*

Question. Where were you born?

Answer. *U S*

Question. Where do you live, and how long have you resided there?

Answer. *10 Hanson St 6 years*

Question What is your business or profession?

Answer *Labrer*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer.

*I am not guilty  
Frank Yeamans*

Taken before me this

day of

188

Police Justice.

POOR QUALITY  
ORIGINAL

0504

FAILED,  
No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

393 1660  
Police Court...  
District...

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Victor Smith  
74 Stuyvesant  
Frank Seamans

Offence Larceny from  
the person

Dated 21 Oct 1888

Daniel O'Reilly Magistrate

Frank DePaul Officer

Witnesses

Officer

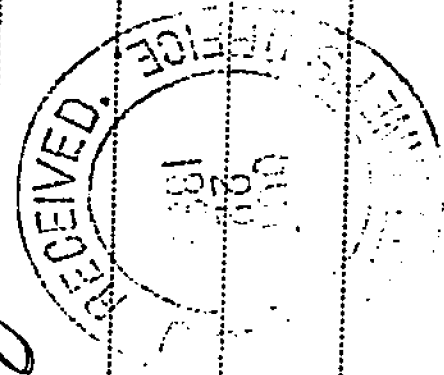
No. \_\_\_\_\_  
Street \_\_\_\_\_

No. \_\_\_\_\_  
Street \_\_\_\_\_

No. \_\_\_\_\_  
Street \_\_\_\_\_

No. \_\_\_\_\_  
Street \_\_\_\_\_

to answer  
to answer  
to answer  
to answer  
to answer



It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Syndant

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Five Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated Oct 21 1888 Sam'l C. Hall Police Justice.

I have admitted the above-named \_\_\_\_\_  
to bail to answer by the undertaking hereto annexed.

Dated \_\_\_\_\_ 1888 \_\_\_\_\_ Police Justice.

There being no sufficient cause to believe the within named \_\_\_\_\_  
guilty of the offence within mentioned, I order h to be discharged.

Dated \_\_\_\_\_ 1888 \_\_\_\_\_ Police Justice.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Frank Yeamans*

The Grand Jury of the City and County of New York, by this indictment, accuse  
*Frank Yeamans*  
of the CRIME OF GRAND LARCENY in the *first* degree, committed as follows:

The said

*Frank Yeamans*

late of the City of New York, in the County of New York aforesaid, on the *twenty-first*  
day of *October* in the year of our Lord one thousand eight hundred and  
eighty-*eight*, in the *night* time of the said day, at the City and County  
aforesaid, with force and arms,

*one pair of trousers of the  
value of one dollar and fifty  
cents*

of the goods, chattels and personal property of one *Victor Swift*  
on the person of the said *Victor Swift*  
then and there being found, from the person of the said *Victor Swift*  
then and there feloniously did steal, take and carry away, against the form of the statute in such  
case made and provided, and against the peace of the People of the State of New York and their  
dignity.

*John R. Fellows,*  
*District Attorney.*